

MONTANA ADMINISTRATIVE REGISTER

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MONTANA ADMINISTRATIVE REGISTER

ISSUE NO. 2

The Montana Administrative Register (MAR or Register), a twice-monthly publication, has three sections. The Proposal Notice Section contains state agencies' proposed new, amended, or repealed rules; the rationale for the change; date and address of public hearing; and where written comments may be submitted. The Rule Adoption Section contains final rule notices which show any changes made since the proposal stage. All rule actions are effective the day after publication of the adoption notice unless otherwise specified in the final notice. The Interpretation Section contains the Attorney General's opinions and state declaratory rulings. Special notices and tables are found at the end of each Register.

Inquiries regarding the rulemaking process, including material found in the Montana Administrative Register and the Administrative Rules of Montana, may be made by calling the Secretary of State's Office, Administrative Rules Services, at (406) 438-6122.

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BEFORE THE DEPARTMENT OF COMMERCE
OF THE STATE OF MONTANA

In the matter of the adoption of New)	NOTICE OF PROPOSED
Rule I pertaining to the deadline for	)	ADOPTION
the second cycle for the Community)	
Development Block Grant (CDBG) –)	
Community and Public Facilities	)	NO PUBLIC HEARING
Projects Application and Guidelines	)	CONTEMPLATED

TO: All Concerned Persons

1. On March 12, 2022, the Department of Commerce proposes to adopt the above-stated rule.

2. The Department of Commerce will make reasonable accommodations for persons with disabilities who wish to participate in this rulemaking process or need an alternative accessible format of this notice. If you require an accommodation, contact the department no later than 5:00 p.m. on February 23, 2022, to advise us of the nature of the accommodation that you need. Please contact Bonnie J. Martello, Paralegal, Montana Department of Commerce, 301 South Park Avenue, P.O. Box 200501, Helena, Montana 59620-0501; telephone (406) 841-2596; fax (406) 841-2701; TDD (406) 841-2702; or e-mail docadministrativerules@mt.gov.

3. The rule proposed to be adopted provides as follows:

NEW RULE I SECOND CYCLE FOR THE COMMUNITY DEVELOPMENT BLOCK GRANT (CDBG) – COMMUNITY AND PUBLIC FACILITIES PROJECTS APPLICATION AND GUIDELINES (1) The Department of Commerce approves a second application cycle for spring 2022. The Department of Commerce will receive CDBG grant applications for the second cycle of spring 2022 on or before March 31, 2022.

(2) All CDBG grant applications must comply with the 2021 Community and Public Facilities Application and Guidelines referenced in ARM 8.94.3729. Copies of the 2021 Community and Public Facilities Projects Application and Guidelines may be obtained as provided in ARM 8.94.3729.

AUTH: 90-1-103, MCA
IMP: 90-1-103, MCA

REASON: The Department of Commerce (department) is proposing to adopt NEW RULE I. This rule notifies the public that the department is opening a second cycle to receive CDBG Community Development Block Grant (CDBG) funds for Community and Public Facilities Projects. The rule sets the deadline for applicants to submit a CDBG grant application for the second cycle on or before March 31, 2022. The department is opening a second cycle based on available grant funds. This rule is necessary to make the public aware of the second cycle offered the

Spring of 2022. The 2021 Community and Public Facilities Application and Guidelines, which is the governing administrative document, is not being amended.

4. Concerned persons may submit their data, views, or arguments concerning the proposed action in writing to: Bonnie Martello, Department of Commerce, Legal Department, 301 South Park Avenue, P.O. Box 200501, Helena, Montana 59620-0533; telephone (406) 841-2596; fax (406) 841-2871; TDD (406) 841-2702; or e-mail DOCAAdministrativeRules@mt.gov, and must be received no later than 5:00 p.m., February 25, 2022.

5. If persons who are directly affected by the proposed action wish to express their data, views, or arguments orally or in writing at a public hearing, they must make written request for a hearing and submit this request along with any written comments to Bonnie Martello at the above address no later than 5:00 p.m., February 25, 2022.

6. If the agency receives requests for a public hearing on the proposed action from either 10 percent or 25, whichever is less, of the persons directly affected by the proposed action; from the appropriate administrative rule review committee of the Legislature; from a governmental subdivision or agency; or from an association having not less than 25 members who will be directly affected, a hearing will be held at a later date. Notice of the hearing will be published in the Montana Administrative Register. Ten percent of those directly affected has been determined to be 18, based on the 56 counties and 129 municipalities that are eligible to apply for the CDBG Community and Public Facilities Program.

7. The department maintains a list of interested persons who wish to receive notices of rulemaking actions proposed by this agency. Persons who wish to have their name added to the list shall make a written request that includes the name, e-mail, and mailing address of the person to receive notices and specifies for which program the person wishes to receive notices. Notices will be sent by e-mail unless a mailing preference is noted in the request. Such written request may be mailed or delivered to the contact person in 4 above or may be made by completing a request form at any rules hearing held by the department.

8. The bill sponsor contact requirements of 2-4-302, MCA, do not apply.

9. With regard to the requirements of 2-4-111, MCA, the department has determined that the adoption of the above-referenced rule will not significantly and directly impact small businesses.

/s/ Amy Barnes
Amy Barnes
Rule Reviewer

/s/ Adam Schafer
Adam Schafer
Deputy Director
Department of Commerce

Certified to the Secretary of State January 18, 2022.

BEFORE THE DEPARTMENT OF COMMERCE
OF THE STATE OF MONTANA

In the matter of the amendment of) NOTICE OF PROPOSED
ARM 8.119.101 pertaining to the) AMENDMENT
Tourism Advisory Council)
) NO PUBLIC HEARING
) CONTEMPLATED

TO: All Concerned Persons

1. On March 12, 2022, the Department of Commerce proposes to amend the above-stated rule.

2. The Department of Commerce will make reasonable accommodations for persons with disabilities who wish to participate in this rulemaking process or need an alternative accessible format of this notice. If you require an accommodation, contact the Department of Commerce no later than 5:00 p.m. on February 23, 2022, to advise us of the nature of the accommodation that you need. Please contact Bonnie J. Martello, Paralegal, Montana Department of Commerce, 301 South Park Avenue, P.O. Box 200501, Helena, Montana 59620-0501; telephone (406) 841-2596; fax (406) 841-2701; TDD (406) 841-2702; or e-mail docadministrativerules@mt.gov.

3. The rule as proposed to be amended provides as follows, new matter underlined, deleted matter interlined:

8.119.101 TOURISM ADVISORY COUNCIL (1) remains the same.

(2) The Tourism Advisory Council incorporates by reference the guide entitled "Regulations and Procedures for ~~Regional~~ Region/CVB Tourism Organizations Use of Lodging Facility Use Tax Revenue, April 2019 January 2022," setting forth the regulations and procedures pertaining to the distribution of lodging facility use tax revenue. The guide is available for public inspection during normal business hours at the ~~Montana Office of Tourism~~ Brand MT, Department of Commerce, 301 South Park Avenue, Helena, Montana 59620, or on the ~~Montana Office of Tourism~~ Brand MT web site at <https://marketmt.com/TourismAdvisoryCouncil>
<https://marketmt.com/Programs/Industry-Services-and-Outreach/Tourism-Advisory-Council>.

(3) Distribution of funds to regional nonprofit tourism corporations and to nonprofit convention and visitors' bureaus is contingent upon compliance with the "Regulations and Procedures for ~~Regional~~ Region/CVB Tourism Organizations Use of Lodging Facility Use Tax Revenue, April 2019 January 2022."

AUTH: 2-15-1816, MCA

IMP: 2-15-1816, MCA

REASON: It is reasonably necessary to amend this rule to reflect changes made by the Tourism Advisory Council on January 6, 2022, to include changes to the region and CVB annual marketing plan guidelines.

4. Concerned persons may submit their data, views, or arguments concerning the proposed action in writing to: Bonnie Martello, Department of Commerce, Legal Department, 301 South Park Avenue, P.O. Box 200501, Helena, Montana 59620-0533; telephone (406) 841-2596; fax (406) 841-2871; TDD (406) 841-2702; or e-mail DOCAAdministrativeRules@mt.gov, and must be received no later than 5:00 p.m., February 25, 2022.

5. If persons who are directly affected by the proposed action wish to express their data, views, or arguments orally or in writing at a public hearing, they must make written request for a hearing and submit this request along with any written comments to Bonnie Martello at the above address no later than 5:00 p.m., February 25, 2022.

6. If the agency receives requests for a public hearing on the proposed action from either 10 percent or 25, whichever is less, of the persons directly affected by the proposed action; from the appropriate administrative rule review committee of the Legislature; from a governmental subdivision or agency; or from an association having not less than 25 members who will be directly affected, a hearing will be held at a later date. Notice of the hearing will be published in the Montana Administrative Register. Ten percent of those directly affected has been determined to be 20 persons based on 18 convention and visitor bureaus, 6 tourism regions, 13 TAC members, and at least 182 potential applicants for grants of accommodation tax funds.

7. The department maintains a list of interested persons who wish to receive notices of rulemaking actions proposed by this agency. Persons who wish to have their name added to the list shall make a written request that includes the name, e-mail, and mailing address of the person to receive notices and specifies for which program the person wishes to receive notices. Notices will be sent by e-mail unless a mailing preference is noted in the request. Such written request may be mailed or delivered to the contact person in 4 above or may be made by completing a request form at any rules hearing held by the department.

8. The bill sponsor contact requirements of 2-4-302, MCA, do not apply.

9. With regard to the requirements of 2-4-111, MCA, the department has determined that the amendment of the above-referenced rule will not significantly and directly impact small businesses.

/s/ Amy Barnes
Amy Barnes
Rule Reviewer

/s/ Adam Schafer
Adam Schafer
Deputy Director
Department of Commerce

Certified to the Secretary of State January 18, 2022.

BEFORE THE BOARD OF PUBLIC EDUCATION
OF THE STATE OF MONTANA

In the matter of the adoption of NEW	)	NOTICE OF PUBLIC HEARING ON
RULES I and II; the amendment of	)	PROPOSED ADOPTION,
ARM 10.57.102, 10.57.107,	)	AMENDMENT, AND REPEAL
10.57.109, 10.57.112, 10.57.201A,)	
10.57.215, 10.57.216, 10.57.217,)	
10.57.218, 10.57.301, 10.57.410,)	
10.57.411, 10.57.412, 10.57.413,)	
10.57.414, 10.57.415, 10.57.418,)	
10.57.419, 10.57.420, 10.57.421,)	
10.57.424, 10.57.425, 10.57.427,)	
10.57.428, 10.57.431, 10.57.432,)	
10.57.433, 10.57.434, 10.57.435,)	
10.57.436, 10.57.437, 10.57.601A,)	
10.57.601B, 10.57.607; and the)	
repeal of ARM 10.57.416, 10.57.417,)	
10.57.426, 10.57.429, and 10.57.430)	
pertaining to Teacher Licensing)	

TO: All Concerned Persons

1. On February 24, 2022, at 9:00 a.m., the Board of Public Education will hold a public hearing in Room 303 of the Montana State Capitol Building, Helena Montana, to consider the proposed adoption, amendment, and repeal of the above-stated rules.

2. The Board of Public Education will make reasonable accommodations for persons with disabilities who wish to participate in this rulemaking process or need an alternative accessible format of this notice. If you require an accommodation, contact the Board of Public Education no later than 5:00 pm on February 17, 2022, to advise us of the nature of the accommodation that you need. Please contact McCall Flynn, Executive Director, Board of Public Education, 46 N. Last Chance Gulch, Suite 2B, P.O. Box 200601, Helena, Montana, 59635; telephone (406) 444-0300; fax (406) 444-0847; or e-mail bpe@mt.gov.

3. The rules as proposed to be adopted provide as follows:

NEW RULE I RECIPROCITY FOR MILITARY SPOUSES/DEPENDENTS

(1) A Class 1, 2, 3, 4, or 6 license may be issued to a military spouse and/or dependents who holds a current, out-of-state unrestricted license.

(2) The license shall be valid for a term of five years.

(3) The applicant must:

(a) be the spouse and/or a dependent of an active-duty member of the United States armed forces who has been transferred to Montana, is scheduled to

be transferred to Montana, is domiciled in Montana. or has moved to Montana on a permanent change-of-station basis; and

(b) submit verified completion of the online course "An Introduction to Indian Education for All in Montana."

(c) An applicant for a Class 3 administrative license must submit verified completion of the requirements of ARM 10.57.415.

AUTH: Mont. Const. Art. X, sec. 9, 20-4-102, MCA

IMP: Mont. Const. Art. X, sec. 9, 20-4-103, 20-4-106, MCA

REASON: The Board of Public Education recognizes the need for reciprocity for military spouses and dependents. According to written testimony from the U.S. Department of Defense, "Barriers to the transfer and acceptance of certifications and licenses that occur when state rules differ can have a dramatic and negative effect on the financial well-being of military families. Removing these barriers, creating reciprocity in licensing requirements, and facilitating placement opportunities can help a military family's financial stability, speed the assimilation of the family into its new location, and create a desirable new employee pool for a state (especially in education and health care)."

Providing reciprocity for military spouses and dependents, who move on an average of every three years, would maximize flexibility when accepting current out-of-state licenses, expedite applications from military spouses/dependents, and waive cumbersome deadlines and other requirements.

During the 2021 calendar year, this licensing mechanism would have been utilized in at least four known cases.

NEW RULE II EDUCATOR PREPARATION PROGRAM VERIFICATION

(1) The Superintendent of Public Instruction has discretion to deny licensure consistent with these rules if the standards for an educator preparation program are not substantially equivalent to or greater than the standards required in Montana, subject to approval by the Board of Public Education upon appeal of the denial.

AUTH: Mont. Const. Art. X, sec. 9, 20-4-102, MCA

IMP: Mont. Const. Art. X, sec. 9, 20-4-103, 20-4-106, MCA

REASON: The Superintendent of Public Instruction has the authority to deny licensure consistent with the rules of ARM Title 10, chapter 57 if the standards of the educator preparation program are determined to not be substantially equivalent or greater than the Montana standards. If the quality of an educator preparation program is below the Montana standards, the Superintendent of Public Instruction has the discretion to deny a license. This is consistent with ARM 10.57.102(2)(b).

4. The rules as proposed to be amended provide as follows, new matter underlined, deleted matter interlined:

10.57.102 DEFINITIONS The following definitions apply to this chapter.

(1) "Acceptable evidence" means relevant official transcripts, university recommendation, certificates of completion, and other documentation as required by the Board of Public Education or the Superintendent of Public Instruction.

(2) "Accredited educator preparation program" means:

(a) an educator preparation program accredited by the National Council for the Accreditation of Teacher Education (NCATE) or the Council for the Accreditation of Educator Preparation (CAEP) or the Montessori Accreditation Council for Teacher Education (MACTE). A MACTE educator preparation program is subject to the following restrictions:

(i) Completion of a MACTE accredited program may only be used by an applicant for licensure who has also completed at least a bachelor's degree; and

(ii) The resulting license granted to an applicant for licensure who has completed a MACTE accredited program shall be limited to early grades or middle grades licensure and only for the grade levels covered by the MACTE accredited program completed by the applicant; or

~~(b) an educator preparation program at a regionally accredited college or university approved or accredited by a state board of education or a state agency. The Superintendent of Public Instruction has discretion to deny licensure consistent with these rules if the standards are not substantially equivalent to or greater than the standards required in Montana, subject to approval by the Board of Public Education upon appeal of the denial.~~

(3) "Accredited specialist program" means:

(a) for school psychologists, a program accredited by the National Association of School Psychologists (NASP); and

(b) for school counselors, a program for the preparation of specialists approved or accredited by:

(i) the Council for the Accreditation of Counseling and Related Education Programs (CACREP); or

~~(ii) a state board of public education or a state agency. The Superintendent of Public Instruction has discretion to deny licensure consistent with these rules if the standards are not substantially equivalent to or greater than the standards required in Montana, subject to approval by the Board of Public Education upon appeal of the denial.~~

(4) "Appropriate grade level(s)" means early childhood, elementary, middle, secondary, or other levels as defined by the Board of Public Education.

(5) "Appropriate official" means the Superintendent of Public Instruction, the dean of the school of education or another official designated by them.

(6) "Approved preparation program" means an educator preparation program approved by a state board of education or a state agency that leads to licensure in the state of preparation.

~~(6) (7)~~ "Certification" means licensure of an educator/specialist, as issued by the state of Montana, based on completion of a teacher, administrator, or specialist program of an accredited college or university. Certification includes grade level(s), endorsement(s), and classification.

~~(7) (8)~~ "College credit" means credit received for completion of a course from a regionally accredited college or university.

(9) "Course work GPA" means the weighted average of teacher education program course grades calculated over the defined period of study at a regionally accredited college or university. The weights reflect the relative contributions of teacher education program course requirements measured in arbitrary units, called credit value, based on contact hours or presumed total student workload.

~~(8)~~ (10) "Endorsement" means an official indication on a license of the grade level(s), subject area(s), or specialist program area(s) as listed in Subchapter 4 for which the licensee is authorized to practice in Montana accredited schools. Grade levels are:

- (a) ~~age 3~~ P - ~~grade 3~~ (early childhood);
- (b) K-8 (elementary);
- (c) 4-8 (middle grades);
- (d) 5-12 (secondary, content-specific);
- (e) K-12 (as delineated in ARM 10.57.412); and
- (f) P-12 (special education and school psychologist).

(11) "Exchange teacher" means a person from outside the United States with exceptional expertise and contracted to provide instruction that is on an exchange program with a school district or university.

~~(9)~~ (12) "Lapsed license" means:

- (a) the licensee has not earned the required number of renewal units during the term of the license; or
- (b) the licensee has earned the required number of renewal units during the term of the license but has not renewed the license by June 30 following the year of expiration.

~~(10)~~ (13) "License" or "licensure" means a certificate issued or applied for under 20-4-101, et seq., MCA.

~~(11)~~ (14) "Regionally accredited" means a college or university accredited by one of the following:

(a) Higher Learning Commission;

~~(a)~~ (b) Middle States Association of Schools and Colleges;

~~(b)~~ (c) New England Association of Schools and Colleges;

~~(c) North Central Association of Schools and Colleges;~~

(d) Northwest Commission on Colleges and Universities;

(e) Southern Association of Schools and Colleges; or

(f) Western Association of Schools and Colleges.

(15) "Student-teaching portfolio" is a collection of artifacts to document evidence of student learning outcomes for teacher education program course requirements.

~~(12)~~ (16) "Supervised teaching experience" means teaching experience while under the supervision of an approved accredited professional educator preparation program and is identified through acceptable evidence as delineated in ARM 10.57.102(1) on a college or university transcript as field experience, internship, practicum, or student teaching.

(17) "Unrestricted license" means a current renewable license that is not an emergency or provisional license.

~~(13)~~ (18) "Year of administrative experience" means employment as a licensed administrator at any level within a state accredited P-12 school system, or

in an educational institution specified in 20-9-707, MCA, ~~for the equivalent of at least .5 full time employee (FTE) for a school year comparable to a 180-day school year~~ for a minimum of a 180-day school year and during that year, must have been at least a 0.5 full time employee (FTE). Experience as a County Superintendent may be considered as "administrative" experience with evidence of the following:

(a) possession of a Class 3 license for the time period requested to be considered as administrative experience; and

(b) the school(s) they are claiming to hold or have held supervisory responsibilities over have provided notice that the county superintendent served in an administrative role.

(14) (19) "Year of teaching experience" means employment as a licensed teacher at any level within a ~~state-accredited~~ P-12 school system, or in an educational institution specified in 20-9-707, MCA, ~~for the equivalent of at least .5 FTE for a school year comparable to a 180-day school year~~ for a minimum of a 180-day school year and during that year, must have been at least a 0.5 full time employee (FTE). Experience gained prior to initial licensure is not considered.

AUTH: Mont. Const. Art. X, sec. 9, 20-4-102, MCA

IMP: Mont. Const. Art. X, sec. 9, 20-4-106, MCA

REASON: (2)(b) In order to implement the recommended changes to treat traditional and alternative pathways equally, it is essential to define a term for "approved educator preparation program." This ensures that both types of programs are approved by a state agency and lead to licensure in the state the program was approved. The term "accredited program" generally applies only to traditional programs that participate in a professional accreditation process.

(6) Proposed new definition of approved educator preparation program to recognize traditional and alternative educator preparation more equally for licensure purposes.

(9) Proposed language to define the additional pathways to demonstrate content and pedagogical knowledge for Coursework GPA. Also, to clarify that the GPA represents not only content knowledge but all the coursework required for the Educator Program of Study.

(10) Changed "3" to "P" to align with the most commonly used language across the field. Removed "accredited" to include all Montana schools.

(11) Added to define "exchange teacher" and clarify difference between exchange teacher and someone who may be working on a visa.

(13)(14) This is proposed to eliminate a common misunderstanding for this definition when it is interpreted or applied. For example, the common misconception is that 5 years of experience for 0.5 FTE for a year comparable to 180-day school year is equivalent to 2.5 years of experience. That math calculation also leads to confusion that 1.0 FTE for 3 years would equate to 6 total years of experience. As a result, we proposed language that would better explain the meaning of the definition.

(15) Proposed language to define the additional pathways to demonstrate content and pedagogical knowledge using a student-teaching portfolio.

(16) Aligned with the new definition of approved educator preparation program. Language change allows for flexibility in evidence outside of just a transcript.

(17) Added for clarity of phrase used throughout rule and inclusion of lifetime licenses.

(18) Simplified the language for the definition of "years of experience" to better convey the concept of a "year of experience" and make it easier to understand and use. Removed "state accredited" to include all P-12 schools' systems.

(19) Simplified the language for the definition of "years of experience" to better convey the concept of a "year of experience" and make it easier to understand and use. Removed "state accredited" to include all P-12 schools' systems.

10.57.107 EMERGENCY AUTHORIZATION OF EMPLOYMENT (1) In accordance with 20-4-111, MCA, district administrators who have exhausted all possibilities for hiring a licensed teacher may request that the Superintendent of Public Instruction issue an emergency authorization of employment to the district to employ a person to teach. The following requirements must be met to ensure consideration of the request:

(a) The request must originate with the school district.

(b) The position must have been advertised at least statewide far enough in advance to reasonably enable qualified applicants to submit applications and be interviewed.

(c) The individual for whom the emergency authorization is being sought shall not be currently endorsed in the area of requested authorization and shall:

(i) have previously held a teacher or specialist license; or

(ii) provide acceptable evidence of academic qualifications or significant experience related to the area for which the emergency authorization of employment is being sought; or

(iii) provide evidence of experience as a paraprofessional; or

(iv) provide evidence to be assigned as a student teacher engaged in "supervised teaching experience" as defined in ARM 10.57.102(16).

(2) An emergency authorization of employment is valid for one year.

(3) Experience as a classroom teacher when authorized pursuant to this rule qualifies as teaching experience as defined in ARM 10.57.102(44)(19).

(4) Emergency authorization of employment for special education teachers is prohibited under federal regulations and is unavailable to a district for such positions.

AUTH: Mont. Const. Art. X, sec. 9, 20-4-102, MCA

IMP: Mont. Const. Art. X, sec. 9, 20-4-111, MCA

REASON: The IDEA Statute Sec. 300.156 Personnel Qualifications states emergency authorization may not be granted in the area of Special Education.

Language was also added to the rule, to codify that the emergency authorization can be used as a way for paraprofessionals and student teachers to be a teacher of record, be compensated similar to a teacher salary rate, and earn teaching experience. Even though the teacher would not qualify the school district for the highly qualified educator payment, this would continue to ensure that the school would not earn a deficiency in accreditation for an unlicensed teacher.

10.57.109 UNUSUAL CASES (1) The Board of Public Education is aware that these licensure rules cannot cover all the special circumstances that can arise. Therefore, the ~~Board of Public Education~~ Superintendent of Public Instruction is authorized to exercise judgment in unusual cases ~~upon recommendation by the Superintendent of Public Instruction~~ and report any such actions to the Board of Public Education on an annual basis.

(2) If the Superintendent of Public Instruction denies an unusual case, the denial may be appealed to the Board of Public Education within 30 days of the denial.

(3) Upon receiving a timely notice of appeal from the denial of an unusual case, the Board of Public Education shall set an unusual case hearing and shall provide notice of the hearing to the prospective licensee and Superintendent of Public Instruction, by certified mail not less than 30 days prior to the date of the hearing.

(a) Such notice shall include:

(i) a statement of the time, place, and nature of the hearing;

(ii) a statement of the legal authority and jurisdiction under which the hearing is to be held;

(iii) a reference to the particular sections of the statutes and rules involved;

(iv) a statement of the matters asserted;

(v) a designation of who will hear the allegation pursuant to ARM 10.57.603;

and

(vi) a statement of the licensee's right to be represented by counsel at the hearing if they so choose at their own cost.

(b) The notice shall advise the prospective licensee that the unusual case hearing will be open to the public unless an individual's right to privacy outweighs the public's right to know as determined by the Board of Public Education.

(4) The prospective licensee and/or the Superintendent of Public Instruction may waive their right to the 30 days' notice in order to be placed on the next meeting agenda by writing a letter to the Board of Public Education.

AUTH: Mont. Const. Art. X, sec. 9, 20-4-102, MCA

IMP: Mont. Const. Art. X, sec. 9, 20-4-102, MCA

REASON: To return the authority to review unusual cases back to the Superintendent. This rule was changed in 2017.

The Office of Public Instruction (OPI) has an Educator Licensure Review Committee in place that reviews denial, suspension, unusual cases, and revocations matters. This committee currently drafts the letters for unusual cases for consideration for the Board of Public Education (BPE) and would continue to enact a review process.

Returning the authority back to the superintendent would reduce the time frame that an educator license remains in pending status while the unusual case is presented and considered by the BPE on a bimonthly schedule. This would also decrease the need to request a 30-day waiver, which is a result of attempting to hear the unusual cases in a timelier manner. If the OPI was to deny an unusual case, there is an appellate procedure for the prospective licensee.

10.57.112 LICENSE OF EXCHANGE TEACHERS ~~(1) An exchange teacher is a person from outside the United States with exceptional expertise and contracted to provide instruction.~~

(2) ~~(1)~~ A Class 5 license may be issued to an exchange teacher as defined in ARM 10.57.102(11) ~~educator~~ who is on an exchange program with a school district or university.

AUTH: Mont. Const. Art. X, sec. 9, 20-4-102, MCA

IMP: Mont. Const. Art. X, sec. 9, 20-4-103, MCA

REASON: Transferred to the definition rule, ARM 10.57.102(11).

10.57.201A CRIMINAL HISTORY BACKGROUND CHECK (1) The National Child Protection Act of 1993, as amended, (codified at 42 United States Code sections 5119a and 5119c) (the "Act") authorizes a state and national criminal history background check to determine the fitness of an employee, volunteer, or other person with unsupervised access to children, the elderly, or individuals with disabilities. The purpose of this rule is to support the Superintendent of Public Instruction's duty to determine whether an applicant for licensure has been convicted of a crime that bears upon the applicant's fitness related to the safety and well-being of children and the integrity of the teaching profession.

(2) Each of the following applicants shall provide to the Montana Department of Justice information and material sufficient to obtain a fingerprint-based national criminal history background check:

(a) any applicant for initial Montana educator licensure;
(b) any applicant seeking to reinstate a lapsed, surrendered, revoked, or suspended educator license; or

(c) an individual for whom a school district is seeking emergency authorization of employment pursuant to ~~20-4-110~~ 20-4-111, MCA, and ARM 10.57.107.

(3) Neither the Superintendent of Public Instruction nor the Board of Public Education shall bear the costs of the background check.

(4) The Superintendent of Public Instruction shall not issue a Montana educator license pursuant to 20-4-101, et seq., MCA, until the applicant's

background check has been completed and the results delivered to and reviewed by the Superintendent of Public Instruction.

(5) To initiate the criminal history background check process, the applicant must submit a set of fingerprints on the appropriate form to the Montana Department of Justice for the purpose of licensure. Criminal background checks submitted for other purposes will not be acceptable for licensure.

(6) As part of the licensure application process, the applicant must provide character and fitness information to the Superintendent of Public Instruction. If the applicant has any criminal history record, the applicant must provide a description and explanation of the circumstances of the crime.

(7) Each applicant who is the subject of a criminal history background check is entitled to receive a copy of the report from the Superintendent of Public Instruction with the appropriate identification and signed release. The applicant may challenge the accuracy and completeness of any information contained in any such report through the Montana Department of Justice procedures.

(8) The Montana Office of Public Instruction shall make a determination whether the applicant has been convicted of, or is under pending indictment for, a crime that bears upon the applicant's fitness related to the safety and well-being of children or the teaching profession.

(9) Conviction, including conviction following a plea of nolo contendere, a conviction in which the sentence is suspended or deferred, or any other adjudication treated by the court as a conviction, may be considered by the Superintendent of Public Instruction in the licensure process if the conviction was for a sexual offense, a crime involving violence, the sale of drugs, theft, or any other offense related to public health, welfare, and safety as it applies to the teaching profession.

AUTH: Mont. Const. Art. X, sec. 9, 20-4-102, MCA

IMP: Mont. Const. Art. X, sec. 9, 20-4-103, 20-4-104, MCA

REASON: To reference to the correct MCA.

10.57.215 PROFESSIONAL DEVELOPMENT AND RENEWAL REQUIREMENTS (1) Montana Class 1, 2, 3, and 6 educator licenses may be renewed with verification of 60 ~~renewal~~ professional development units earned during the five years of validity through August 31 of the year the license expires.

(a) Applicants for an initial Montana Class 1, 2, 3, and 6 license whose degree is more than five years old and who do not have a current out-of-state licensure may be issued with verification of 60 professional development units earned within the five-year period preceding the effective date of the license.

(2) Participation in ~~renewal~~ professional development activities is equivalent to the following ~~renewal~~ professional development units:

(a) one hour of attendance at a professional development activity = one ~~renewal~~ professional development unit;

(b) one quarter college credit = 10 ~~renewal~~ professional development units;

(c) one semester college credit = 15 ~~renewal~~ professional development units.

(3) ~~Renewal~~ Professional development activities used to renew or obtain all licenses must be a planned and structured experience, of benefit to the licensee's

professional development as defined in ARM 10.55.714, an exposure to a new idea or skill or an extension of an existing idea or skill, and in compliance with (4).

(4) Activities acceptable to renew or obtain licenses are professional development, training, workshops, or coursework consistent with PK-12 public school curriculum and may include:

- (a) credits earned from a regionally accredited college or university;
 - (b) activities offered by ~~renewal~~ professional development unit providers approved pursuant to ARM 10.57.216 and documented on an OPI ~~renewal~~ professional development unit certificate;
 - (c) other professional development activities offered by providers who have not been approved as a ~~renewal~~ professional development unit provider pursuant to ARM 10.57.216, when licensees have received approval for the professional development activity from the Superintendent of Public Instruction;
 - (d) another state's validated professional development activities other than college or university credit when the intent and structure of the process ensures the meeting or exceeding of Montana ~~renewal~~ professional development unit requirements for licensure;
 - (e) the instruction of a relevant college or university course by a Montana licensee who has achieved a graduate degree in an endorsed field of specialization; or
 - (f) verification of completing the National Board Certification (NBC) process through the National Board of Professional Teaching Standards or successfully achieving and renewing NBC licensure shall result in 60 ~~renewal~~ professional development units. NBC ~~renewal~~ professional development units may apply to renewal of an expiring license.
- (5) The licensee shall be solely responsible for retaining the ~~renewal~~ professional development unit verification to be used in the application for license renewal.

AUTH: Mont. Const. Art. X, sec. 9, 20-2-121, 20-4-102, MCA
IMP: Mont. Const. Art. X, sec. 9, 20-4-102, 20-4-108, MCA

REASON: Augment recency requirements to include professional development options that can be used in lieu of additional coursework or credit requirements. This may increase access to qualified educators who have an expired license and want additional options beside attending college or university courses. The wide range of cost-effective professional development opportunities often exceed the variety of college courses offerings. This expansion allows educators to better personalize their professional learning and growth. Language adjusted to align with the 6 semester or 60 PD units for recency. They cannot be considered renewal units because a candidate does not have a license yet to renew. They first need to earn 6 credits or the 60 units to first earn a renewable license.

10.57.216 APPROVED PROFESSIONAL DEVELOPMENT AND RENEWAL ACTIVITY (1) Organizations wishing to offer professional development activities for the award of ~~renewal~~ professional development units must receive approval from the

Superintendent of Public Instruction prior to offering activities. Status as an approved provider will continue as long as the provider is in compliance with (2).

(2) Approved providers of professional development for the award of ~~renewal~~ professional development units must:

(a) provide activities deemed appropriate for professional development of licensees in compliance with ARM 10.55.714 and 10.57.215;

(b) prepare and award completed ~~renewal~~ professional development unit certificates provided by the Superintendent of Public Instruction, ~~or an approved facsimile~~, to eligible participants;

(c) annually report the activities offered to the Superintendent of Public Instruction, including:

(i) the activity title and brief description;

(ii) date(s) and location(s) of the program; and

(iii) program schedule, name, and number of participants; and

(d) maintain records of all professional development activities for which ~~renewal~~ professional development unit awards are made for five years following the date of completion of the annual reporting requirement.

(3) The Superintendent of Public Instruction shall provide access to approved professional development providers and annually provide a report to the Board of Public Education, which shall include, at a minimum, a list of providers.

AUTH: Mont. Const. Art. X, sec. 9, 20-4-102, MCA

IMP: Mont. Const. Art. X, sec. 9, 20-4-108, MCA

REASON: Language adjusted from "renewal" to "professional development" to align with the 6 semester or 60 professional development units for recency.

10.57.217 APPEAL PROCESS FOR ~~RENEWAL~~ PROFESSIONAL DEVELOPMENT ACTIVITY (1) Decisions of the Superintendent of Public Instruction on matters of ~~renewal~~ professional development unit activity or provider status may be appealed to the Board of Public Education pursuant to ARM 10.57.603.

AUTH: Mont. Const. Art. X, sec. 9, 20-4-102, MCA

IMP: Mont. Const. Art. X, sec. 9, 20-4-108, MCA

REASON: Language adjusted from "renewal" to "professional development" to align with the 6 semester or 60 PD units for recency.

10.57.218 ~~RENEWAL~~ PROFESSIONAL DEVELOPMENT UNIT VERIFICATION (1) Applications to the Superintendent of Public Instruction for license renewal shall include a listing of the activities completed for renewal as required by ARM 10.57.215. The licensee is responsible for maintaining official documentation verifying completion of ~~renewal~~ professional development activities during the term of the license.

(2) The Superintendent of Public Instruction may conduct an audit of any renewal applications submitted. Those licensees selected for audit will be required

to submit official transcripts or original ~~renewal~~ professional development unit certificates within 60 days from the date the renewal application is submitted or from the date of the audit letter.

(3) Failure to respond within the time allowed to a request for ~~renewal~~ professional development unit activities in connection with an audit may result in denial of license renewal.

AUTH: Mont. Const. Art. X, sec. 9, 20-4-102, MCA

IMP: Mont. Const. Art. X, sec. 9, 20-4-108, MCA

REASON: Language adjusted from "renewal" to "professional development" to align with the 6 semester or 60 PD units for recency.

10.57.301 ENDORSEMENT INFORMATION (1) The only endorsements on Montana teaching, administrative, or specialist licenses are those approved by the Board of Public Education.

(2) An initial endorsement may be granted by the Superintendent of Public Instruction based on the program of study completed as verified by the appropriate official defined in ARM 10.57.102.

(3) To add an additional endorsement to a Class 1 or 2 license, an applicant must submit verification of one of the three pathways:

(a) Endorsement program completion and recommendation for the endorsement from the appropriate official from an approved professional program, and

(i) proof of a minimum passing score on the PRAXIS Subject Assessment applicable to the requested endorsement as established by the Office of Public Instruction and approved by the Board of Public Education; on the endorsement-related content area exam; or

(ii) evidence of a passing score on a student teaching portfolio as defined in ARM 10.57.102 and verified by the appropriate official from the educator preparation program; or

(iii) evidence of a 3.00 or higher coursework Grade Point Average (GPA) as defined in ARM 10.57.102 and verified by the appropriate official from the educator preparation program.

(b) Posted Degree, Major, Minor, or National Board for Professional Teaching Standards Certification: Evidence of completion of at least one of the following degrees in the area applicable to the requested endorsement:

(i) a doctorate degree;

(ii) a master's degree;

(iii) a baccalaureate degree, with a major or posted minor of at least 18 semester hours in the endorsement area requested; or

(iv) a certificate for National Board of Certification for Teaching;

(v) This method is not available for early childhood (P-3), elementary education (K-8), reading (K-12), english as a second language (K-12); School Administrator (Superintendent, Principal, or Supervisor); Specialist (School Psychologist or School Counselor); and initial endorsements in Special Education fields.

(c) Content Area Knowledge and Teaching Experience: Evidence of two years of teaching experience while appropriately licensed documented by a recommendation from a P-12 school employer on a form prescribed by the Superintendent of Public Instruction and proof of a minimum passing score on the PRAXIS Subject Assessment applicable to the requested endorsement as established by the Office of Public Instruction and approved by the Board of Public Education; on the endorsement-related content area exam. Only where content area exam(s) have been identified may endorsements be added with this method.

(i) If the applicant has a categorical special education endorsement, the applicant must pass the state-designated content test for a K-12 special education endorsement. If the applicant has a P-3 or K-8 special education endorsement, the applicant must have a minimum of two years of teaching experience as appropriately licensed in special education and pass the state-designated pedagogy test for the secondary level to add the K-12 special education endorsement.

(ii) This method is not available for early childhood (P-3), elementary education (K-8), reading (K-12), english as a second language (K-12); School Administrator (Superintendent, Principal, or Supervisor); Specialist (School Psychologist or School Counselor); and initial endorsements in Special Education fields.

~~(3)~~ (4) An endorsement may be dropped from a license at the end of its valid term if licensure requirements pursuant to these rules are met.

AUTH: Mont. Const. Art. X, sec. 9, 20-4-102, MCA

IMP: Mont. Const. Art. X, sec. 9, 20-4-103, 20-4-106, MCA

REASON: Montana certificate endorsements focus on teaching topics and are intended to add value to a license or certificate. Like teaching certificates, the characteristics (including grade level) and focus of the state's endorsements can complicate an educator's desire to either add a subsequent endorsement or apply for an endorsement when moving to the state.

The Board of Public Education wants to allow more flexibility for current and future educators to obtain subsequent endorsements areas which may help address teacher shortages, particularly in rural schools. This increased flexibility strives to find more time and cost-effective ways for educators to expand their credentials, whether it is through college coursework, work experience, or testing.

10.57.410 CLASS 2 STANDARD TEACHER'S LICENSE (1) A Class 2 standard teacher's license shall be valid for a term of five years.

(2) Applicants for an initial Montana Class 1, 2, ~~or 3~~ standard teacher's license whose degree is more than five years old and who do not have current out-of-state licensure must have earned ~~six semester credits from a regionally accredited college or university~~ 60 professional development units as defined in ARM 10.57.215(4) within the five-year period preceding the effective date of the license. For the purposes of this provision, current licensure does not include provisional, or restricted, ~~or lifetime~~ licenses.

(3) To obtain a Class 2 standard teacher's license an applicant must submit verification of all of the following:

(a) a bachelor's degree from a regionally accredited college or university;
(b) completion of an ~~accredited professional~~ approved educator preparation program including appropriate supervised teaching experience as the terms are defined in ARM 10.57.102 with a recommendation for the license requested from the appropriate official from the educator preparation program;

(c) qualification for one or more endorsement as outlined in ARM 10.57.412;
or

(d) ~~a current license from the National Board for Professional Teaching Standards in an area approved for endorsement in Montana~~ verified completion of the online course "An Introduction to Indian Education for All in Montana"; and

(e) proof of:

(i) a minimum passing score on the PRAXIS Subject Assessment applicable to the requested endorsement as established by the Office of Public Instruction and approved by the Board of Public Education; or

(ii) a passing score on a student-teaching portfolio as defined in ARM 10.57.102 and verified by the appropriate official from the educator preparation program; or

(iii) a 3.00 or higher course work grade point average (GPA) as defined in ARM 10.57.102 and verified by the appropriate official from the educator preparation program.

(4) ~~If the educator preparation program completed by the applicant is not in Montana, upon initial application of a Class 1 or Class 2 license, the applicant must provide:~~

(a) ~~proof of a minimum passing score on the PRAXIS Subject Assessment applicable to the requested endorsement as established by the Office of Public Instruction and approved by the Board of Public Education; or hold current certification from the National Board for Professional Teaching Standards in an area approved for endorsement in Montana, and apply for endorsement in the same area; and~~

(b) ~~verified completion of the on-line course "An Introduction to Indian Education for All in Montana"; and~~

(c) ~~verified completion of an accredited professional educator preparation program including appropriate supervised teaching experience as the terms are defined in ARM 10.57.102; or~~

(d) ~~verified completion of an educator preparation program, a current standard, unrestricted out-of-state educator license, and five years of successful teaching experience as defined in ARM 10.57.102 and appropriately aligned to ARM 10.58.501 as documented by a recommendation from the out-of-state state accredited P-12 school employer on a form prescribed by the Superintendent of Public Instruction.~~

(5) (4) A Class 2 standard teacher's license is renewable pursuant to the requirements of ARM 10.57.215.

(6) (5) A lapsed Class 2 standard teacher's license may be reinstated by earning 60 ~~renewal~~ professional development units as defined in ARM 10.57.215(4)

units during the five-year period preceding the date of application for the new license.

AUTH: Mont. Const. Art. X, sec. 9, 20-2-121, 20-4-102, MCA

IMP: Mont. Const. Art. X, sec. 9, 20-4-102, 20-4-103, 20-4-106, 20-4-108, MCA

REASON: Language added to allow flexibility for these specific cases to obtain a license without having to take additional university classes.

Removed language regarding National Board Certification because recommended changes have NBPTS eligible for Class 1 Professional license.

Included rather than prohibited a lifetime license to the list of approved current out-of-state licenses.

Inclusion of multiple pathways to show competency beyond the Praxis.

Revised to recognize traditional and alternative educator preparation more equally for licensure purposes.

10.57.411 CLASS 1 PROFESSIONAL TEACHER'S LICENSE (1) A Class 1 professional teacher's license shall be valid for a period of five years.

(2) To obtain a Class 1 professional teacher's license an applicant must submit verification of all the following:

(a) eligibility for the Class 2 standard teacher's license as set forth in ARM 10.57.410, ~~including proof of a minimum passing score on the PRAXIS Subject Assessment applicable to the requested endorsement if the educator preparation program completed by the applicant is not in Montana; or hold current certification from the National Board for Professional Teaching Standards in an area approved for endorsement in Montana, and apply for endorsement in this same area;~~

(b) completion of "An Introduction to Indian Education for All in Montana"; and

(c) a master's degree in education or an endorsable teaching area(s) from a regionally accredited college or university or certification by the National Board for Professional Teaching Standards; ~~and~~

~~(d) three years of teaching experience as defined by ARM 10.57.102.~~

(3) A Class 1 professional teacher's license shall be renewable pursuant to the requirements of ARM 10.57.215.

(4) A lapsed Class 1 professional teacher's license may be reinstated by earning 60 ~~renewal~~ professional development units as defined in ARM 10.57.215(4) units during the five-year period preceding the date of application for the new license.

AUTH: Mont. Const. Art. X, sec. 9, 20-4-102, MCA

IMP: Mont. Const. Art. X, sec 9, 20-4-106, 20-4-108, MCA

REASON: National Board Certification (NBC) is a voluntary, advanced teaching credential that goes beyond state licensure. NBC has national standards for what accomplished teachers should know and be able to do. The National Board for Professional Teaching Standards (NBPTS) certifies teachers who successfully complete its rigorous certification process. Based on the rigorous requirements for certification by the National Board for Professional Teaching Standards which includes extensive professional learning activities equivalent to master's level work, it is proposed to elevate the NBC from a Class 2 Standard Teacher's License to a Class 1 Professional Teacher's License. Language added to align with previous changes for 60 professional development units.

10.57.412 CLASS 1 AND 2 ENDORSEMENTS (1) Subject field endorsement must be in areas approved for endorsement by the Board of Public Education.

(2) Areas approved for endorsement on Class 1 and 2 licenses include the following: agriculture, art K-12, biology, business education, chemistry, communication, computer science, early childhood (~~age 3 to grade P-3~~), earth science, economics, elementary education (K-8), English, English as a second language K-12, family and consumer sciences, geography, health, health and physical education K-12, history, industrial trades and technology education, journalism, library K-12, mathematics, middle grades (4-8), music K-12, physical education K-12, physics, political science, psychology, reading K-12, school counseling K-12, science (broadfield), social studies (broadfield), sociology, special education P-12, special education P-12 hearing impairment, special education P-12 vision impairment, theater, traffic education, and world languages K-12.

(3) As appropriate, grade level endorsements may be issued as consistent with the educator preparation program completed by the applicant.

(4) Permissive special competencies or endorsements identified on an educator license, but no longer offered, may be retained as long as the licensee continues to renew the license.

(5) To obtain an early childhood (~~age 3 to grade 3 P-3~~), elementary (K-8), or middle grades (4-8), secondary (5-12 content-specific), K-12, or P-12 (special education) endorsement, an applicant must provide verification of completion of an accredited teacher education approved educator preparation program at the grade level(s) identified by the program, ~~in those areas to include~~ including supervised teaching experience or a waiver of this requirement if the applicant has previously had supervised teaching experience.

~~(6) To obtain a secondary (5-12) or K-12 endorsement other than special education, the applicant must provide verification of:~~

~~(a) completion of an accredited professional educator preparation program at the grade level(s) identified by the program, including supervised teaching experience, or a waiver of this requirement on the university recommendation if the applicant has previously had supervised teaching experience; or~~

~~(b) completion of an educator preparation program, a current standard, unrestricted out-of-state educator license, and five years of successful teaching experience as defined in ARM 10.57.102 documented by a recommendation from a~~

state accredited P-12 school employer on a form prescribed by the Superintendent of Public Instruction.

~~(7) To obtain an endorsement in special education P-12, the applicant must provide verification of:~~

~~(a) completion of an accredited professional educator preparation program; or
(b) completion of a state approved special education P-12 professional educator preparation program from a regionally accredited college or university; and
(c) supervised teaching experience or a waiver of this requirement if the applicant has previously had supervised teaching experience.~~

~~(8) (6)~~ Applicants must also submit a recommendation for any endorsement requested from the appropriate official from an approved educator preparation accredited professional educator program.

~~(9) (7)~~ Applicants who have completed an approved ~~accredited professional educator preparation programs~~ outside of Montana and hold endorsements in specific disability areas (for example, early childhood special education, autism, hearing impaired) ~~in another state~~ may qualify for a special education P-12 endorsement in hearing and vision upon verification of program completion and proof of a minimum passing score on the PRAXIS Subject Assessment applicable to the special education endorsement.

~~(10) (8)~~ Applicants with graduate degrees in an endorsable area may use experience instructing in relevant college or university courses as credit in that endorsement area for licensure.

AUTH: Mont. Const. Art. X, sec. 9, 20-4-102, MCA

IMP: Mont. Const. Art. X, sec. 9, 20-4-106, 20-4-108, MCA

REASON: Aligned with change in ARM 10.57.102. All endorsement areas combined to reduce replication. Revised to recognize traditional and alternative educator preparation more equally for licensure purposes. Synthesized to reduce replication.

10.57.413 CLASS 3 ADMINISTRATIVE LICENSE (1) A Class 3 administrative license shall be valid for a period of five years.

(2) Appropriate administrative areas which may be approved for license endorsement are: elementary principal, secondary principal, K-12 principal, K-12 superintendent, and supervisor.

(3) To obtain a Class 3 administrative license, except pursuant to ARM 10.57.419, an applicant must be eligible for an appropriately endorsed Class 1, 2, or 5 teaching license or Class 6 School Counseling license to work teach in the school(s) in which the applicant would be an administrator or would supervise, and qualify as set forth in ARM 10.57.414, 10.57.415, and through 10.57.418.

~~(4) An applicant for a Class 3 administrative license who completed an educator preparation program which does not meet the definition in ARM 10.57.102, who is currently licensed in another state at the same level of licensure, may be considered for licensure with verification of five three years of successful administrative experience as defined in ARM 10.57.102 as documented by a recommendation from a state accredited P-12 school employer on a form prescribed by the Superintendent of Public Instruction and approved by the Board~~

of Public Education. The requirements of ARM 10.57.414(1)(c)(i) through (iii) must be met by an applicant seeking a superintendent endorsement.

(5) An applicant for a Class 3 administrative license must submit verified completion of the online course "An Introduction to Indian Education for All in Montana."

(6) A Class 3 administrative license shall be renewable pursuant to the requirements of ARM 10.57.215.

(7) A lapsed Class 3 administrative license may be reinstated by ~~showing verification of earning 60 renewal units earned~~ professional development units as defined in ARM 10.57.215(4) during the five-year period preceding the date of application for the new license.

AUTH: Mont. Const. Art. X, sec. 9, 20-4-102, MCA

IMP: Mont. Const. Art. X, sec. 9, 20-4-106, 20-4-108, MCA

REASON: School counselors seeking a Class 3 administrative license first need to gain classroom teaching experience, which may deter school counselors from pursuing administrator licensure. If a counselor to administrator pathway were reverted to a similar pathway available prior to 2015, more school counselors may pursue administrative licenses. The majority of licensure denials in the last three years have been for school counselors seeking administrative licenses who do not have teaching experience.

Added language to align with previous changes for 60 professional development units. Revised to recognize traditional and alternative educator preparation more equally for licensure purposes.

10.57.414 CLASS 3 ADMINISTRATIVE LICENSE - SUPERINTENDENT ENDORSEMENT (1) To obtain a superintendent endorsement an applicant must provide verification of all of the following:

(a) an education specialist, master's, or doctoral degree from a regionally accredited college or university in education or education leadership;

(b) completion of an approved ~~accredited professional~~ educator preparation program as defined in ARM 10.57.102 for superintendents with a recommendation for the license requested from the appropriate official from the educator preparation program;

(c) ~~a minimum of 18 semester graduate credits in a school administrator preparation program, of which 12 must be beyond the master's degree in education leadership and include three credits in each of the following:~~ completion of Montana requirements through online professional development courses or graduate coursework in each of the following areas:

(i) Montana school law; and

(ii) Montana school finance; and

(iii) Montana collective bargaining and employment law;

(d) completion of the online course "An Introduction to Indian Education for All in Montana";

(~~d~~) (e) a minimum of three years of ~~teaching~~ experience as an appropriately licensed teacher or school counselor;

~~(e) (f)~~ licensure and endorsement as a principal (~~P-12~~); and
~~(f) (g)~~ a minimum of one year of administrative experience as an appropriately licensed principal or one year of a supervised Board of Public Education approved administrative internship as a superintendent.

~~(2) Applicants must also submit a recommendation for the endorsement requested from the appropriate official from accredited professional superintendent program.~~

AUTH: Mont. Const. Art. X, sec. 9, 20-4-102, MCA

IMP: Mont. Const. Art. X, sec. 9, 20-4-106, 20-4-108, MCA

REASON: To increase flexibility for EPPs to design programming based on the Montana specific requirements rather than a set number of courses and credits (60 professional development units). The recommended language change replaces the "three credits" with "Montana educator preparation program requirements" in each of the following: (i) Montana school law; (ii) Montana school finance; and (iii) Montana collective bargaining and employment law. Revised to recognize traditional and alternative educator preparation more equally for licensure purposes.

10.57.415 CLASS 3 ADMINISTRATIVE LICENSE - ~~ELEMENTARY~~ PRINCIPAL ENDORSEMENTS (1) To obtain an elementary, secondary, or K-12 principal endorsement an applicant must provide verification of:

(a) a minimum of three years of teaching or school counseling experience with a standard, unrestricted license at the ~~elementary~~ level of the requested endorsement;

(b) a master's degree ~~in educational leadership from an accredited professional educator preparation program as defined in ARM 10.57.102 or a master's degree related to education from a regionally accredited college or university from a regionally accredited college or university in education or education leadership~~;

(c) completion of an approved ~~accredited professional educator preparation program as defined in ARM 10.57.102 for elementary principals at the level of the requested endorsement with a recommendation from the appropriate official from the educator preparation program~~;

(d) completion of three semester credits of college courses in ~~Montana~~ school law, including special education law; and

(e) ~~recommendation for the endorsement from the appropriate official from an accredited professional principal program~~ verified completion of the online course "An Introduction to Indian Education for All in Montana."

AUTH: Mont. Const. Art. X, sec. 9, 20-4-102, MCA

IMP: Mont. Const. Art. X, sec. 9, 20-4-106, 20-4-108, MCA

REASON: Synthesized to reduce replication. Matched the language in ARM 10.57.415(1)(c) to the language used throughout the chapter. Generalized the requirement for school law. Revised to recognize traditional and alternative educator preparation more equally for licensure purposes.

10.57.418 CLASS 3 ADMINISTRATIVE LICENSE - SUPERVISOR ENDORSEMENT (1) ~~This administrative~~ To obtain a supervisor endorsement is issued in specific fields such as math, music, and school counseling: an applicant must provide verification of: ~~This endorsement may be issued to applicants who submit verification:~~

- (a) ~~of completion of an accredited~~ approved educator preparation program with a recommendation from the appropriate official from the educator preparation program;
- (b) ~~of completion of a master's degree in the area requested for endorsement at a regionally accredited college or university;~~
- (c) ~~that the applicant meets~~ eligibility requirements for a Class 1 or Class 2 teaching license endorsed in the field of specialization or Class 6 school counseling license;
- (d) ~~of three years of teaching experience~~ or school counseling with a standard, unrestricted license;
- (e) ~~of completion of a supervised practicum/internship at an accredited professional~~ approved educator preparation program; and
- (f) ~~of recommendation for the endorsement from the appropriate official from an accredited professional supervisor program~~ verified completion of the online course "An Introduction to Indian Education for All in Montana."

AUTH: Mont. Const. Art. X, sec. 9, 20-4-102, MCA

IMP: Mont. Const. Art. X, sec. 9, 20-4-106, 20-4-108, MCA

REASON: Inclusion of counseling component. Matched the language in ARM 10.57.418(1)(a) to the language used throughout the chapter. Revised to recognize traditional and alternative educator preparation more equally for licensure purposes.

10.57.419 CLASS 3 ADMINISTRATIVE LICENSE - SPECIAL EDUCATION SUPERVISOR ENDORSEMENT (1) ~~This administrative~~ To obtain a supervisor endorsement is issued in the specific field of special education an applicant must provide ~~This endorsement may be issued to applicants who submit~~ verification of:

- (a) completion, at a regionally accredited college or university, of a master's degree in special education or a master's degree in the following special education-related service fields: school psychologist, speech-language pathologist, audiologist, physical therapist, occupational therapist, registered nurse, clinical social worker, or clinical professional counselor;
- (b) full licensure in the field of specialization;
- (c) three years of teaching experience ~~in an accredited school setting with a standard, unrestricted license~~, or five three years of experience ~~in an accredited school setting with a standard, unrestricted license~~ as a fully licensed and assigned related services provider;
- (d) three semester credits in special education law;
- (e) a supervised practicum/internship from an ~~accredited~~ approved special education supervisor program;

(f) verified completion of the online course "An Introduction to Indian Education for All in Montana;" and

(f) (g) recommendation for the endorsement from the appropriate official from an ~~accredited~~ approved special education supervisor program.

AUTH: Mont. Const. Art. X, sec. 9, 20-4-102, MCA

IMP: Mont. Const. Art. X, sec. 9, 20-4-106, 20-4-108, MCA

REASON: Reduced the 5-year to a 3-year requirement for a special education supervisor. Revised to recognize traditional and alternative educator preparation more equally for licensure purposes. Removed "accredited" to include all P-12 schools.

10.57.420 CLASS 4 CAREER AND TECHNICAL EDUCATION LICENSE

(1) A Class 4 license is specific to career and technical education and shall be valid for a period of five years.

(2) There are three types of Class 4 licenses:

(a) A Class 4A license issued to individuals holding a valid Montana teaching license, but without an appropriate career and technical education endorsement;

(b) A Class 4B license issued to individuals with an apprenticeship program or associate or at least a bachelor's degree from a regionally accredited college or university, but who do not hold a valid Montana teaching license with the appropriate career and technical education endorsement; and

(c) A Class 4C license issued to individuals who hold at least a high school diploma or high school equivalency diploma and meet the minimum requirements for endorsement.

(3) To obtain a Class 4 career and technical educator license an applicant must:

(a) meet the requirements of (2)(a), (b), or (c) above and qualify for one or more endorsements as outlined in ARM 10.57.421; and

(b) verify completion of the online course "An Introduction to Indian Education for All in Montana."

(4) A Class 4 license shall be renewable pursuant to the requirements of ARM 10.57.215 and the requirements specific to each type of Class 4 license.

(a) Class 4A licenses shall be renewable by earning 60 professional development ~~renewal~~ units. Endorsement related technical studies may be accepted. ~~Additionally,~~ The first renewal must show evidence of ~~renewal~~ professional development units earned in each of the following areas:

(i) curriculum and instruction in career and technical education; and

(ii) safety and teacher liability.

(b) Class 4B or 4C licenses shall be renewable by earning 60 ~~renewal~~ professional development units. The first renewal must show evidence of ~~renewal~~ professional development units earned in the following areas:

(i) curriculum and instruction in career and technical education; and

(ii) safety and teacher liability.

(c) Other professional development appropriate to renew a Class 4B or 4C license includes the following:

- (i) principles and/or philosophy of career and technical education;
 - (ii) curriculum and instruction in career and technical education;
 - (iii) learning styles/teaching styles; including serving students with special needs;
 - (iv) safety and teacher liability;
 - (v) classroom management;
 - (vi) teaching methods;
 - (vii) career guidance in career and technical education; or
 - (viii) endorsement related technical studies, with prior OPI approval.
- (5) A lapsed Class 4 license may be reinstated by showing verification of 60 renewal professional development units earned during the five-year period preceding the validation date of the new license, including ~~renewal~~ professional development units in:
- (a) curriculum and instruction in career and technical education;
 - (b) safety and teacher liability; and
 - (c) endorsement related technical studies or industry validated training.

AUTH: Mont. Const. Art. X, sec. 9, 20-4-102, MCA

IMP: Mont. Const. Art. X, sec. 9, 20-4-106, 20-4-108, MCA

REASON: The Board of Public Education proposes the inclusion of an associate degree and apprenticeship certificate to the 4B license. This flexibility is proposed to expand CTE pathways for trained and qualified individuals to support student learning in these areas. Inclusion of IEFA requirement for all classes of licenses. Added language to replace renewal units with professional development units to align with previous changes.

10.57.421 CLASS 4 ENDORSEMENTS (1) Recognized occupations eligible for a Class 4 license shall be evaluated on an annual basis by the Superintendent of Public Instruction. Appropriate career and technical education areas acceptable for endorsement on the Class 4 license include but are not limited to the following: agriculture business, agriculture mechanics, auto body, automotive technology, aviation, building maintenance, building trades, business marketing, computer coding, computer information systems, culinary arts, diesel mechanics, drafting, electronics, emergency medical technician (EMT), engineering, fire and disaster services, graphic arts, health science education, heavy equipment operations, horticulture, industrial mechanics, livestock production, machining, metals, plant and soil sciences, Reserve Officer Training Corps (ROTC) instruction, small engines, stagecraft, teacher education, videography, and welding.

(2) Endorsements removed from the list of recognized occupations may be retained as long as the licensee continues to renew the license.

(3) To obtain an endorsement on a Class 4 license, an applicant must provide verification of a minimum of ~~10,000~~ 5,000 hours of documented, relevant work experience which may include apprenticeship training, documenting the knowledge and skills required in the specific trade in which they are to teach. Acceptable documentation of relevant work experience is determined by the Superintendent of Public Instruction and may include, but is not limited to:

(a) work experience completed and verified by previous employers, to include a detailed description of the duties performed during employment;

(b) for self-employed individuals, examples of projects completed, letters of verification from clients or customers, profit and loss statements demonstrating the viability of the business or self-employment;

(c) verification of teaching experience in the area requested for endorsement, accompanied by verification of substantial work experience in the area requested for endorsement; or

(d) certificates of completion of appropriate technical programs or related college degrees and coursework, and industry certification (e.g., ASE, AWS).

(4) For health science education, engineering, computer information systems, computer coding, teacher education, EMT, or fire and disaster services, an alternative to the above requirement of ~~40,000~~ 5,000 hours of work experience may be substituted as recognized by the Office of Public Instruction and the Board of Public Education as follows:

(a) For health science education:

(i) hold a Class 1 or 2 license with an endorsement in health or any of the science areas;

(ii) provide verification of successful completion of a blended learning professional development course of at least ~~80~~ 60 hours by a provider recognized by the Office of Public Instruction and the Board of Public Education; and

(iii) successful completion of coursework in human biology or anatomy and physiology; or

(iv) hold a current professional license in a related health occupation field.

(b) For engineering:

(i) hold a Class 1 or 2 license with an endorsement in math or science; and

(ii) provide verification of successful completion of a blended learning professional development course of at least ~~80~~ 60 hours by a provider recognized by the Office of Public Instruction and the Board of Public Education.

(c) For computer information systems an individual may provide verification of completion of an approved technical program in a recognized training institution and hold a professional license or industry standard certificate recognized by the Office of Public Instruction and the Board of Public Education.

(d) For computer coding:

(i) hold a Class 1 or 2 license; and

(ii) provide verification of successful completion of a blended learning professional development course of at least ~~80~~ 60 hours by a provider recognized by the Office of Public Instruction and the Board of Public Education.

(e) For teacher education:

(i) hold a Class 1 or 2 license; and

(ii) provide verification of successful completion of five years of professional experience as a licensed educator.

(f) For EMT:

(i) hold a Class 1 or 2 license;

(ii) hold a current CPR/First Aid certificate and a current license as a lead instructor obtained through the Montana Board of Medical Examiners;

(iii) provide verification of a minimum of 2,000 hours of EMT experience; and

(iv) provide verification of successful completion of a blended learning professional development course offered by the Office of Public Instruction.

(v) In addition to renewal requirements outlined in ARM 10.57.420, renewal of this endorsement will also require a current CPR/First Aid certificate and a current license as a lead instructor obtained through the Montana Board of Medical Examiners.

(g) For fire and disaster services:

(i) hold a Class 1 or 2 license;

(ii) provide verification of a minimum of 2,000 hours of employment in fire services or law enforcement; and

(iii) provide verification of successful completion of a blended learning professional development course offered by the Office of Public Instruction.

(5) A Class 4A, 4B, or 4C career and technical education license may be approved to teach traffic education if the license meets the requirements of ARM 10.13.310.

(6) To qualify for a ROTC instructor endorsement the applicant must provide evidence of certification by the appropriate branch of the U.S. military and successful completion of a criminal background check pursuant to ARM 10.57.201A. This endorsement does not require verification of ~~10,000~~ 5,000 hours of work experience and may not be issued as a Class 4C license. A Class 4A or 4B license with a ROTC endorsement may be renewed every five years with resubmission of certification by the appropriate branch of the U.S. military.

AUTH: Mont. Const. Art. X, sec. 9, 20-4-102, MCA

IMP: Mont. Const. Art. X, sec. 9, 20-4-106, 20-4-108, MCA

REASON: OPI researched other states' requirements, which range from 2,000 to 10,000. Montana with 10,000 is on the high end. 5000 hours is recommended, based on equivalence 5000 hrs./8 hrs. per day/235 calendar workdays. Recommendation to lower the hours from 80 to 60 hours to align with the requirements of recency and renewal requirements.

10.57.424 CLASS 5 PROVISIONAL LICENSE (1) There are ~~two~~ three types of Class 5 licenses:

(a) a Class 5A provisional license that is valid for ~~three~~ one years; and

(b) ~~a Class 5A provisional license that is valid for one year.~~ a Class 5B provisional license that is valid for three years; and

(c) a Class 5C provisional license that is valid for three years.

(2) A Class 5A provisional license will be issued to those individuals seeking their initial Montana educator license who meet all licensure requirements except need successful completion of the Montana required Praxis test. This license is valid for one year and is non-renewable.

~~(2)(3)~~ A Class 5B provisional license is valid for a term of three years, is not renewable, and may not be reinstated. A Class 5B provisional license will be issued to those individuals who hold a bachelor's degree from a regionally accredited college or university but have not completed an approved educator preparation program. A Montana educator may be issued only one Class 5 provisional license

per teaching license (Class 1 or 2), administrator license (Class 3), or specialist license (Class 6). A Class 5 provisional license is not available for an initial Class 4 license or a Class 7 or 8 license.

(3) (a) An applicant for a Class 5B provisional license must sign and file with the Superintendent of Public Instruction a plan of professional intent leading, within three years of the date of validity of the provisional license, to an appropriately endorsed Class 1, 2, 3, or 6 license as provided in ARM 10.57.412, 10.57.414, 10.57.415, 10.57.418, ~~through 10.57.419, or 10.57.434 and 10.57.435~~ 10.57.436.

(4) A Class 5C provisional license is valid for a term of three years, is not renewable, and may not be reinstated. A Class 5C provisional license will be issued to those seeking a license in Montana whose degree is more than five years old, do not hold a current standard, unrestricted educator licensure, and have not earned 60 professional development units as defined in ARM 10.57.215(4) within the five-year period preceding the effective date of the license.

(a) An applicant for a Class 5C provisional license must sign and file with the Superintendent of Public Instruction a plan of professional intent to obtain 60 professional development units which lead, within three years of the date of validity of the provisional license, to an appropriately endorsed Class 1, 2, 3, or 6 license as provided in ARM 10.57.412, 10.57.414, 10.57.415, 10.57.418, 10.57.419, or 10.57.434 and 10.57.435.

(4) (5) ~~An applicant for a Class 5A, 5B, or 5C provisional license who has graduated from an educator preparation program outside of Montana must provide proof of~~ must provide verification of:

(a) ~~a minimum passing score on the Praxis Subject Assessment applicable to the requested endorsement; or hold current certification from the National Board for Professional Teaching Standards in an area approved for endorsement in Montana, and apply for endorsement in the same area~~ a bachelor's degree from a regionally accredited college or university; and

(b) ~~have a current Montana address or job offer from an accredited or a state-funded P-12 school in Montana; and~~

(5) (c) ~~An applicant for a Class 5 provisional license must provide verified completion of the online course "An Introduction to Indian Education for All in Montana."~~

(6) A Class 5A, 5B, or 5C provisional licensee is not eligible for a Board of Public Education approved internship program in the same endorsement area subsequent to the Class 5A, 5B, or 5C licensure expiration date.

(7) ~~A Class 5A provisional license will be issued to those individuals seeking their initial Montana educator license who meet all licensure requirements except for successful completion of the Montana required Praxis test. This license is valid for one year and is non-renewable.~~

AUTH: Mont. Const. Art. X, sec. 9, 20-4-102, MCA

IMP: Mont. Const. Art. X, sec. 9, 20-4-106, 20-4-108, MCA

REASON: (5)(a) Maintain the one-year time frame to complete and pass the Praxis.
(5)(b) 3 years' time frame to complete an EPP while employed or residing in MT.

(5)(c) 3 years' time frame language added to allow flexibility for specific cases where an out-of-state license has expired, and the candidate does not have recent credits within the last 5 years. This allows a teacher to obtain a license by opting to complete 60 professional development units, or 6 semester credits, or a combination of college credits and PD units.

10.57.425 CLASS 5 PROVISIONAL LICENSE - ELEMENTARY LEVEL ENDORSEMENTS (1) ~~To obtain a Class 5 provisional license with an elementary, middle, or early childhood level endorsement, an applicant must provide verification of:~~ Subject field endorsement must be in areas approved for endorsement by the Board of Public Education.

~~(a) a bachelor's degree from a regionally accredited college or university; and
(b) for those applicants who have not completed an accredited professional education preparation program, a plan of study from an accredited professional educator preparation program verifying that the applicant:~~

~~(i) can meet the requirements for full licensure within the three-year valid period of the license; and~~

~~(ii) meets the professional educator preparation program's admission requirements.~~

(2) Areas approved for endorsement on Class 5 provisional license include the following: agriculture, art K-12, biology, business education, chemistry, communication, computer science, early childhood (P-3), earth science, economics, elementary education (K-8), English, English as a second language K-12, family and consumer sciences, geography, health, health and physical education K-12, history, industrial trades and technology education, journalism, library K-12, mathematics, middle grades (4-8), music K-12, physical education K-12, physics, political science, psychology, reading K-12, school counseling K-12, science (broadfield), social studies (broadfield), sociology, special education P-12, special education P-12 hearing impairment, special education P-12 vision impairment, theater, traffic education, and world languages K-12.

(3) As appropriate, grade level endorsements may be issued as consistent with the educator preparation program completed by the applicant.

(4) To obtain an early childhood (P-3), elementary (K-8), middle grades (4-8), secondary (5-12 content-specific), K-12 (as delineated in ARM 10.57.412), or P-12 (special education and school psychologist) endorsement, an applicant must provide verification of:

(a) a bachelor's degree from a regionally accredited college or university; and

(b) for those applicants who have not completed an approved educator preparation program, a plan of study from an approved educator preparation program verifying that the applicant:

(i) can meet the requirements for full licensure within the three-year valid period of the license; and

(ii) meets the professional educator preparation program's admission requirements.

AUTH: Mont. Const. Art. X, sec. 9, 20-4-102, MCA

IMP: Mont. Const. Art. X, sec. 9, 20-4-106, 20-4-108, MCA

REASON: Synthesized to reduce replication. Revised to recognize traditional and alternative educator preparation more equally for licensure purposes.

10.57.427 CLASS 5 PROVISIONAL LICENSE – SUPERINTENDENT ENDORSEMENT (1) To obtain a Class 5 provisional license with a superintendent endorsement, an applicant must provide verification of:

(a) a master's degree in ~~educational leadership from an accredited professional educator preparation program as defined in ARM 10.57.102~~ from a regionally accredited college or university in education or education leadership;

(b) eligibility for a Class 1, 2, or 5 teaching license or school counseling license or a current standard, unrestricted out-of-state license and ~~five years of successful supervisory experience as a licensed administrator as defined in ARM 10.57.102, documented by a recommendation from a state accredited P-12 school employer on a form prescribed by the Superintendent of Public Instruction;~~

(c) a minimum of three years of experience as an appropriately licensed and assigned teacher or school counselor license at any level;

(d) one year of appropriately licensed experience as a principal;

(e) completion of an ~~accredited professional~~ approved educator preparation program, as defined in ARM 10.57.102, for superintendents; and

(f) for those applicants who have not completed the ~~required courses in Montana school law, Montana school finance, and Montana collective bargaining and employment law, a plan of intent as detailed in ARM 10.57.424.~~ Montana requirements through online professional development courses or graduate coursework in each of the following areas:

(i) Montana school law; and

(ii) Montana school finance; and

(iii) Montana collective bargaining and employment law; a plan of intent as detailed in ARM 10.57.424.

(2) Applicants required to complete coursework other than Montana requirements in Montana school law, Montana collective bargaining and employment law, and Montana school finance are not eligible for a Class 5 provisional license, but may enroll in an internship program pursuant to ARM 10.55.607.

AUTH: Mont. Const. Art. X, sec. 9, 20-4-102, MCA

IMP: Mont. Const. Art. X, sec. 9, 20-4-106, 20-4-108, MCA

REASON: Included the counseling component and the three options for professional development courses for college course work. Revised to recognize traditional and alternative educator preparation more equally for licensure purposes.

10.57.428 CLASS 5 PROVISIONAL LICENSE - ELEMENTARY PRINCIPAL ENDORSEMENT (1) To obtain a Class 5 provisional license with an elementary, secondary, or K-12 principal endorsement, an applicant must provide verification of:

(a) a master's degree from an ~~accredited professional educator preparation program~~ a regionally accredited college or university in education or education leadership;

(b) eligibility for a Class 1, 2, or 5 teaching or school counseling license at the ~~elementary level of the requested endorsement or a current standard, unrestricted out-of-state license and five years of successful supervisory experience as a licensed administrator as defined in ARM 10.57.102 as documented by a recommendation from a state accredited P-12 school employer on a form prescribed by the Superintendent of Public Instruction;~~ and

(c) a minimum of three years of experience as an appropriately licensed and assigned teacher ~~at the elementary level~~ or counselor at the level of the requested endorsement.

(2) Applicants required to complete coursework requirements other than Montana school law, including special education law are not eligible for a Class 5 provisional license, but may enroll in an internship program pursuant to ARM 10.55.607.

AUTH: Mont. Const. Art. X, sec. 9, 20-4-102, MCA

IMP: Mont. Const. Art. X, sec. 9, 20-4-106, 20-4-108, MCA

REASON: The Board of Public Education intends to include a pathway for counselors to become licensed. Revised to recognize traditional and alternative educator preparation more equally for licensure purposes. The language was synthesized to reduce replication.

10.57.431 CLASS 5 PROVISIONAL LICENSE - SUPERVISOR

ENDORSEMENT (1) To obtain a Class 5 provisional license with a supervisor endorsement, an applicant must provide verification of:

(a) a master's degree from a regionally accredited college or university in the area requested for supervisory endorsement; and

(b) three years of appropriately licensed experience as a teacher or counselor in the area requested for supervisory endorsement ~~or five~~ three years of experience in a school setting as a fully licensed and appropriately assigned related services provider; and

(c) a plan of study from an ~~accredited professional~~ approved educator preparation program verifying that the applicant:

(i) can meet the requirements for full licensure within the three-year valid period of the license; and

(ii) meets the ~~professional~~ educator preparation program's admission requirements.

AUTH: Mont. Const. Art. X, sec. 9, 20-4-102, MCA

IMP: Mont. Const. Art. X, sec. 9, 20-4-106, 20-4-108, MCA

REASON: The Board of Public Education intends to reduce the required years and include a pathway for counselors. Also align language for the educator preparation program.

10.57.432 CLASS 5 PROVISIONAL LICENSE - SPECIALIST

ENDORSEMENT (1) To obtain a Class 5 provisional license with a specialist endorsement in school psychology, an applicant must provide:

(a) verification of a master's degree or greater in school psychology or related field from a regionally accredited college or university; and

(b) for those applicants who have not completed an ~~accredited~~ approved specialist preparation program, verification from an ~~accredited~~ approved specialist program, of being within four course deficiencies of completing full requirements as outlined in ARM 10.57.434.

(2) To obtain a Class 5 provisional license with a specialist endorsement in school counseling an applicant must provide:

(a) verification of a bachelor's degree; and

(b) verification from the ~~accredited~~ approved specialist program, of being within four course deficiencies of completing full requirements as outlined in ARM 10.57.435.

AUTH: Mont. Const. Art. X, sec. 9, 20-4-102, MCA

IMP: Mont. Const. Art. X, sec. 9, 20-4-106, 20-4-108, MCA

REASON: Revised to recognize traditional and alternative educator preparation more equally for licensure purposes.

10.57.433 CLASS 6 SPECIALIST LICENSE (1) A Class 6 specialist license

is valid for a period of five years.

(2) Class 6 specialist licenses may be issued with the following endorsements:

(a) school psychologist; or

(b) school counselor.

(3) Applicants for an initial Montana Class 6 license with a degree more than five years old and who do not have current out-of-state licensure must have earned ~~six graduate semester credits from a regionally accredited college or university~~ 60 professional development units as defined in ARM 10.57.215(4) within the five-year period preceding the effective date of the license. For the purposes of this provision, current licensure does not include provisional, or restricted, or lifetime licenses.

(4) An applicant must verify completion of the online course "An Introduction to Indian Education for All in Montana."

~~(4)~~ (5) A Class 6 specialist license may also be endorsed in traffic education if the licensee meets the requirements of ARM 10.13.310 and is approved by the Superintendent of Public Instruction.

~~(5)~~ (6) Class 6 specialist licenses may be renewed pursuant to the requirements of ARM 10.57.215.

~~(6)~~ (7) A lapsed Class 6 specialist license may be reinstated by showing verification of ~~60 renewal~~ professional development units earned during the five-year period preceding the date of application for the new license.

AUTH: Mont. Const. Art. X, sec. 9, 20-4-102, MCA

IMP: Mont. Const. Art. X, sec. 9, 20-4-106, 20-4-108, MCA

REASON: The Board of Public Education intends to include the Indian Education for All in Montana course as a requirement for all licenses. The board also intends to increase flexibility for educators. It is proposed to adjust the 6-semester requirement for recency to include the option of 60 professional development units. As a result, the term renewal units are renamed as professional development units.

Including rather than prohibiting a lifetime license to the list of approved current out-of-state licenses.

10.57.434 CLASS 6 SPECIALIST LICENSE - SCHOOL PSYCHOLOGIST

(1) To obtain a Class 6 specialist license with a school psychologist endorsement an applicant must provide verification of:

(a) current credentials as a nationally certified school psychologist (NCSP) from the National Association of School Psychologists (NASP); or

(b) completion of a specialist level degree from a NASP accredited school psychologist program which included a 1200-hour internship, of which 600 hours were in a school setting; or

(c) for those applicants who did not earn at least a specialist level school psychology degree from a NASP accredited program:

(i) a master's degree or higher in school psychology or a related field from a regionally accredited college or university; and

(ii) recommendation from a NASP accredited specialist program defined in ARM 10.57.102, attesting to the applicant's qualifications being equivalent to NASP training standards, which included a 1200-hour internship experience of which 600 hours were in a school setting.

AUTH: Mont. Const. Art. X, sec. 9, 20-4-102, MCA

IMP: Mont. Const. Art. X, sec. 9, 20-4-106, 20-4-108, MCA

REASON: The Board of Public Education intends to clarify that the rule is a or b. This is not a content change, just language clarification.

10.57.435 CLASS 6 SPECIALIST LICENSE - SCHOOL COUNSELOR

(1) To obtain a Class 6 specialist license with a school counselor endorsement an applicant must provide verification of:

(a) a master's degree from a regionally accredited college or university; and

(b) completion of a CACREP accredited school counselor program which included an internship in a school setting of 600 hours; or

(c) for those applicants who did not earn a degree from a CACREP accredited program:

(i) a master's degree in school counseling from a regionally accredited college or university; and

(ii) recommendation from an ~~accredited~~ approved specialist program defined in ARM 10.57.102, which included an internship in a school setting of 600 hours.

AUTH: Mont. Const. Art. X, sec. 9, 20-4-102, MCA

IMP: Mont. Const. Art. X, sec. 9, 20-4-106, 20-4-108, MCA

REASON: Revised to recognize traditional and alternative educator preparation more equally for licensure purposes.

10.57.436 CLASS 7 AMERICAN INDIAN LANGUAGE AND CULTURE SPECIALIST (1) A Class 7 American Indian language and culture specialist license is valid for ~~a period of five years~~ the lifetime of the license holder.

(2) The Superintendent of Public Instruction shall issue a Class 7 license based upon verification by the authorized representative of a tribal government, that has a memorandum of understanding with the Superintendent of Public Instruction, that the applicant has met tribal standards for competency and fluency as a requisite for teaching that language and culture.

(3) The Board of Public Education will accept and place on file the criteria developed by each tribe for qualifying an individual as competent to be a specialist in its language and culture.

(4) An application must verify completion of the online course "An Introduction to Indian Education for All in Montana."

~~(4) (5)~~ A Class 7 American Indian language and culture specialist licensee may be approved to teach traffic education if the licensee meets the requirements of ARM 10.13.310 and is approved by the Superintendent of Public Instruction.

~~(5) A Class 7 American Indian language and culture specialist license may be renewed upon verification by the tribe that the professional development plan, as defined by the memorandum of understanding in (2) is met.~~

(6) A school district may assign an individual licensed under this rule to only specialist services within the field of American Indian language and culture under such supervision as the district may deem appropriate. No other teaching license or endorsement is required for duties within this prescribed field.

AUTH: Mont. Const. Art. X, sec. 9, 20-4-102, MCA

IMP: Mont. Const. Art. X, sec. 9, 20-4-103, 20-4-106, MCA

REASON: The Board of Public Education intends to include the Indian Education for All in Montana course as a requirement for all licenses. Extending the term for a Class 7 American Indian Language and Culture Specialist from 5 years to lifetime, which also removes the requirement for renewal.

10.57.437 CLASS 8 DUAL CREDIT POSTSECONDARY FACULTY LICENSE (1) A faculty member of a college or university is required to hold a Class 8 dual credit license, unless already licensed or eligible for licensure as a Class 1, 2, or 4 and properly endorsed, whenever a faculty member is teaching a dual credit course at the college or university for which one or more students will earn both high school and college credit.

(2) The license is valid for five years.

(3) To obtain a Class 8 dual credit postsecondary faculty license, an applicant shall provide the following:

- (a) verification of faculty employment from the Chief Academic Officer or an appropriate official of the employing regionally accredited college or university;
 - (b) compliance with all other nonacademic requirements for licensure as required by 20-4-104, MCA, ARM 10.57.201 and 10.57.201A; and
 - (c) recommendation from the Chief Academic Officer from a regionally accredited college or university verifying the following:
 - (i) the applicant plans to teach in a subject covered by the K-12 endorsement areas in ARM 10.57.438, and will teach a subject in which the applicant has a major or minor; and
 - ~~(ii) the applicant demonstrates adequate education and experience to instruct dual enrollment courses as demonstrated by the following criteria:~~
 - ~~(A) ability to create learning environments that support creativity, critical thinking, individual and collaborative learning, and that encourage positive social interaction, active engagement in learning, and self motivation;~~
 - ~~(B) understanding and ability to use a variety of instructional and assessment strategies to encourage learners to develop understanding of content areas and to build skills to apply knowledge in meaningful ways; and~~
 - ~~(C) understanding of individual differences and diverse cultures with an ability to integrate history, culture, heritage, and contemporary status of American Indians and tribes in Montana.~~
 - (d) verification of completion of the online course "An Introduction to Indian Education for All in Montana."
- (4) Class 8 dual credit license applications will be reviewed by the Certification Standards and Practices Advisory Council for recommendation regarding issuance of the license by the Superintendent of Public Instruction. Denial of an application for licensure shall be appealable to the Board of Public Education pursuant to ARM 10.57.607.
- (5) A Class 8 dual credit postsecondary faculty license may be consecutively reissued upon submission and approval of an application for renewal. An educator with a lapsed Class 8 license must submit a new application.
- (6) A Class 8 license shall not be valid unless the licensee is in an employment relationship with a regionally accredited college or university.

AUTH: Mont. Const. Art. X, sec. 9, 20-4-102, MCA

IMP: Mont. Const. Art. X, sec. 9, 20-4-106, 20-4-108, MCA

REASON: The Board of Public Education intends to include the Indian Education for All in Montana course as a requirement for all licenses. The board intends to remove barriers to Class 8 licenses and develop a more expedient approach for university faculty to apply for a Class 8 license. This eliminates duplicative and extensive evidence of content knowledge that an applicant must submit. Currently, the requirements for a Class 8 license include the submission of a curriculum vitae, teaching philosophy, syllabi, course examples of assignments/projects along with official transcripts and recommendation and verification from a college or university. Most of the supplemental materials (curriculum vitae, teaching philosophy, syllabi, course examples of assignments/projects) are not requested for any other license nor used as criteria to issue or deny a license. The suggestion is to simplify the

criteria based on ARM 10.57.437 (3)(a) through (c): verification of faculty employment from the chief academic officer or an appropriate official of the employing regionally accredited college or university; compliance with all other nonacademic requirements for licensure as required by 20-4-104, MCA, ARM 10.57.201 and 10.57.201A; and recommendation from the chief academic officer from a regionally accredited college or university verifying the following: the applicant plans to teach in a subject covered by the K-12 endorsement areas in ARM.

10.57.601A DEFINITION OF "IMMORAL CONDUCT" (1) "Immoral conduct" related to the teaching profession, under 20-4-110(1)(f), MCA, includes, but is not limited to:

- (a) sexual contact, as defined in 45-2-101, MCA, or sexual intercourse as defined in 45-2-101, MCA, involving a minor or a person the applicant or licensee knows, reasonably should know, or should have known is a student at a public or private elementary or secondary school;
- (b) conduct, whether resulting in the filing of criminal charges or not, which would constitute an offense under any of the following statutes of this state:
 - (i) 45-5-502, MCA, (sexual assault);
 - (ii) 45-5-503, MCA, (sexual intercourse without consent);
 - (iii) 45-5-504, MCA, (indecent exposure);
 - (iv) 45-5-505, MCA, (deviate sexual conduct), if the conduct either was non-consensual or involved a minor or a person the applicant or licensee knows, reasonably should know, or should have known is a student at a public or private elementary or secondary school;
 - (v) 45-5-507, MCA, (incest);
 - (vi) 45-5-601, 45-5-602, or 45-5-603, MCA, (offenses involving prostitution);
 - (vii) 45-5-622(2), MCA, (endangering the welfare of children);
 - (viii) 45-5-623, MCA, (unlawful transactions with children);
 - (ix) 45-5-625, MCA, (sexual abuse of children);
 - (x) 45-8-201, MCA, (obscenity);
 - (xi) 45-5-627, MCA, (ritual abuse of minor);
 - (xii) any statute in Title 45, chapter 9, part 1, MCA, (dangerous drugs); ~~provided that a first offense under 45-9-102(2), MCA, shall not fall within this definition;~~
 - (xiii) 45-5-220, MCA, (stalking);
 - (xiv) 45-5-223, MCA, (surreptitious visual observation or recordation);
 - (xv) 45-10-103, MCA, (criminal possession of drug paraphernalia);
 - (xvi) 45-10-105, MCA, (delivery of drug paraphernalia to a minor);
 - (xvii) 45-8-334, MCA, (possession of a destructive device);
 - (xviii) 45-8-361, MCA, (possession or allowing possession of weapon in school building);
 - (xix) 45-8-403, MCA, (use of threat to coerce gang membership);
 - (xx) 45-8-406, MCA, (supplying of firearms to criminal street gang);
 - (xxi) 45-5-622(3), MCA (endangering welfare of children);
- (c) repeated convictions for violations of any one or more of the criminal laws of this state, which violations are not otherwise grounds for suspension or

revocation, if the repeated convictions, taken together, demonstrate that the teacher, specialist or administrator is unwilling to conform their conduct to the requirements of law;

(d) occurrences related to ARM 24.9.1003(3), (sexual harassment), defined as "unwelcome sexual advances, requests for sexual favors, and other verbal and physical conduct of a sexual nature" when:

(i) submission to the conduct is explicitly or implicitly made a term or condition of education;

(ii) submission to or rejection of the conduct is used as the basis for an educational decision affecting the individual; and/or

(iii) the conduct has the purpose or effect of unreasonably interfering with school performance or creating an intimidating, hostile or offensive learning environment.

(e) submitting false credentials, omitting relevant information, or making any statement of material fact an applicant or licensee knows to be false to apply for a license, endorsement, employment, or promotion. False credentials include but are not limited to:

(i) college degrees or credit from non-accredited or -approved colleges or universities;

(ii) false professional development credit;

(iii) false academic awards; or

(iv) inaccurate employment history;

(f) significant misuse of technology or electronic communication involving a minor or a person an applicant or licensee knows, reasonably should know, or should have known is a student at a public or private elementary or secondary school, including but not limited to misuse of computers, cellular telephones, or other electronic devices; or

(g) intentionally falsifying or deliberately misrepresenting information regarding standardized assessment of students, including but not limited to providing or changing test answers or using inappropriate testing accommodations or modifications.

AUTH: Mont. Const. Art. X, sec. 9, 20-4-102, MCA

IMP: Mont. Const. Art. X, sec. 9, 20-4-110, MCA

REASON: To correct the rule to reflect legislative changes in HB 701.

10.57.601B REVIEW (1) Upon receipt of a request for disciplinary action by the trustees of a district or the Superintendent of Public Instruction pursuant to 20-4-110(2), MCA, and ARM 10.57.601, the Board of Public Education shall review the allegations to determine whether there is sufficient cause to believe that professional misconduct occurred.

(2) This review shall include notifying the affected licensee of the request for discipline and allegations against the licensee by certified mail and allowing the licensee ten days to respond to those charges.

(3) If the ~~board~~ Board of Public Education determines there is sufficient cause to believe that professional misconduct occurred, the ~~board~~ Board of Public

Education shall provide notice to the licensee of a hearing on possible disciplinary action as provided in ARM 10.57.602.

AUTH: Mont. Const. Art. X, sec. 9, 20-4-102, MCA

IMP: Mont. Const. Art. X, sec. 9, 20-4-110, MCA

REASON: Clarification to specify which board as it could mean the Board of Trustees or the Board of Public Education.

10.57.607 APPEAL FROM DENIAL OF AN EDUCATOR/SPECIALIST

LICENSE (1) Written notice of appeal from the decision of the Superintendent of Public Instruction to deny issuance or renewal of an educator/specialist license must be submitted to the Board of Public Education. Written notice of appeal must be postmarked or received by the board no later than 30 days from the date of the letter of denial sent from the office of the Superintendent of Public Instruction.

(2) ~~The written notice of appeal may not be submitted by e-mail.~~ The written notice of appeal shall be submitted by email or sent via post mail. The notice must be signed by the appellant and must:

(a) summarize the appellant's responses to the superintendent's denial of licensure;

(b) provide preliminary statements supporting the appellant's contention that the superintendent's denial should be overturned; and

(c) if applicable, show that the appeal satisfies the requirements of ARM 10.57.608.

(3) When an appeal of a denial from the decision of the superintendent is before the Board of Public Education, the board shall provide notice by certified mail at least 30 days prior to a hearing of the appeal.

(a) Such notice shall include:

(i) a statement of the time, place, and nature of the hearing;

(ii) the legal authority and jurisdiction under which the hearing is to be held;

(iii) reference to the particular sections of the statutes and rules involved;

(iv) a statement of the matters asserted; and

(v) designation of who will hear the allegation pursuant to ARM 10.57.603.

(b) The notice shall advise the applicant that the applicant has the right to contest the denial and that the applicant may do so by appearing at the hearing either personally or through counsel, or by requesting the board to consider the matter on the basis of the available evidence without an appearance by the applicant.

(c) The notice shall advise the licensee that the hearing will be open to the public unless an individual's right to privacy outweighs the public's right to know.

(d) The hearing officer or person designated pursuant to ARM 10.57.603 to hear the appeal shall conduct a pre-hearing conference to determine matters relevant to scheduling, evidence, witnesses, and other matters related to the hearing as delineated in ARM 10.57.603.

AUTH: Mont. Const. Art. X, sec. 9, 20-2-121, 20-4-102, MCA

IMP: Mont. Const. Art. X, sec. 9, 20-4-102, 20-4-110, MCA

REASON: The Board of Public Education intends to include email as an appropriate form of communication.

5. The Board of Public Education proposes to repeal the following rules:

10.57.416 CLASS 3 ADMINISTRATIVE LICENSE - SECONDARY PRINCIPAL ENDORSEMENT

AUTH: Mont. Const. Art. X, sec. 9, 20-4-102, MCA

IMP: Mont. Const. Art. X, sec. 9, 20-4-106, 20-4-108, MCA

REASON: Not necessary as it was synthesized into ARM 10.57.415.

10.57.417 CLASS 3 ADMINISTRATIVE LICENSE - K-12 PRINCIPAL ENDORSEMENT

AUTH: Mont. Const. Art. X, sec. 9, 20-4-102, MCA

IMP: Mont. Const. Art. X, sec. 9, 20-4-106, 20-4-108, MCA

REASON: Not necessary as it was synthesized into ARM 10.57.415.

10.57.426 CLASS 5 PROVISIONAL LICENSE – SECONDARY, K-12, AND P-12 SPECIAL EDUCATION LEVELS

AUTH: 20-4-102, MCA

IMP: 20-4-106, 20-4-108, MCA

REASON: Not necessary as it was synthesized into ARM 10.57.425.

10.57.429 CLASS 5 PROVISIONAL LICENSE - SECONDARY PRINCIPAL ENDORSEMENT

AUTH: Mont. Const. Art. X, sec. 9, 20-4-102, MCA

IMP: Mont. Const. Art. X, sec. 9, 20-4-106, 20-4-108, MCA

REASON: Not necessary as it was synthesized into ARM 10.57.415.

10.57.430 CLASS 5 PROVISIONAL LICENSE - K-12 PRINCIPAL ENDORSEMENT

AUTH: 20-4-102, MCA

IMP: 20-4-106, 20-4-108, MCA

REASON: Not necessary as it was synthesized into ARM 10.57.415.

6. Concerned persons may submit their written data, views, or arguments to: McCall Flynn, Executive Director, Board of Public Education, 46 N. Last Chance Gulch, Suite 2B, P.O. Box 200601, Helena, Montana, 59635; telephone (406) 444-0300; fax (406) 444-0847; or e-mail bpe@mt.gov, and must be received no later than 5:00 p.m., April 8, 2022.

7. McCall Flynn, Executive Director, has been designated to preside over and conduct this hearing.

8. The Board of Public Education maintains a list of interested persons who wish to receive notices of rulemaking actions proposed by this agency. Persons who wish to have their name added to the list shall make a written request that includes the name, e-mail, and mailing address of the person to receive notices and specifies for which program the person wishes to receive notices. Notices will be sent by e-mail unless a mailing preference is noted in the request. Such written request may be mailed or delivered to the contact person in paragraph 7 or may be made by completing a request form at any rules hearing held by the department.

9. An electronic copy of this proposal notice is available through the Secretary of State's web site at <http://sosmt.gov/ARM/Register>.

10. The bill sponsor contact requirements of 2-4-302, MCA, do not apply.

11. With regard to the requirements of 2-4-111, MCA, the Board of Public Education has determined that the adoption, amendment, and repeal of the above-referenced rules will not significantly and directly impact small businesses.

/s/ McCall Flynn
McCall Flynn
Rule Reviewer

/s/ Tammy Lacey
Tammy Lacey
Chair
Board of Public Education

Certified to the Secretary of State January 18, 2022.

BEFORE THE BOARD OF PUBLIC EDUCATION
OF THE STATE OF MONTANA

In the matter of the amendment of	)	NOTICE OF PROPOSED
ARM 10.64.301 pertaining to school	)	AMENDMENT
bus requirements)	
	)	NO PUBLIC HEARING
	)	CONTEMPLATED

TO: All Concerned Persons

1. The Board of Public Education proposes to amend the above-stated rule.

2. The Board of Public Education will make reasonable accommodations for persons with disabilities who wish to participate in this rulemaking process or need an alternative accessible format of this notice. If you require an accommodation, contact the board no later than 4:00 p.m. on February 21, 2022, to advise us of the nature of the accommodation that you need. Please contact McCall Flynn, Executive Director, Board of Public Education, 46 N. Last Chance Gulch, Suite 2B, P.O. Box 200601, Helena, Montana, 59635; telephone (406) 444-0300; fax (406) 444-0847; or e-mail mflynn@mt.gov.

3. The rule as proposed to be amended provides as follows, new matter underlined, deleted matter interlined:

10.64.301 SCHOOL BUS REQUIREMENTS (1) The Board of Public Education adopts and incorporates the Standards for School Buses in Montana – ~~2018~~ 2022. A copy of this document is available from the Office of Public Instruction, Pupil Transportation Division, P.O. Box 202501, Helena, Montana 59620-2501 and is available at the following web address: bpe.mt.gov.

(2) The Board of Public Education adopts standards for school buses in Montana in part from the National School Transportation Specifications and Procedures, as adopted in 2015 by the Sixteenth National Congress on School Transportation (NCST). The NCST occasionally issues an interpretation on its adopted specifications and procedures. Any interpretation adopted by the NCST shall be the official interpretation of the corresponding Montana standard unless that interpretation is specifically redefined or preempted by a corresponding Montana standard, law, or regulation. The National School Transportation Specifications and Procedures and additional information regarding the NCST are available at www.NCSTOnline.org.

AUTH: Mont. Const. Art. X, sec. 9, 20-2-114, 20-2-121, MCA

IMP: Mont. Const. Art. X, sec. 9, 20-2-121, 20-3-106, 20-7-101, 20-10-111, MCA

4. REASON: The Board of Public Education adopted Standards for School Buses in Montana – 2022 with an effective date of January 14, 2022. The bus

standards have been revised to conform with the passage of House Bills 207, 267, and 300.

5. Concerned persons may submit their data, views, or arguments concerning the proposed actions in writing to: McCall Flynn, Executive Director, Board of Public Education, 46 N. Last Chance Gulch, Suite 2B, P.O. Box 200601, Helena, Montana, 59635; telephone (406) 444-0300; fax (406) 444-0847; or e-mail mflynn@mt.gov and must be received no later than 5:00 p.m., February 28, 2022.

6. If persons who are directly affected by the proposed action wish to express their data, views, or arguments orally or in writing at a public hearing, they must make written request for a hearing and submit this request along with any written comments to McCall Flynn at the above address no later than 5:00 p.m., February 28, 2022.

7. If the agency receives requests for a public hearing on the proposed action from either 10 percent or 25, whichever is less, of the persons directly affected by the proposed action; from the appropriate administrative rule review committee of the Legislature; from a governmental subdivision or agency; or from an association having not less than 25 members who will be directly affected, a hearing will be held at a later date. Notice of the hearing will be published in the Montana Administrative Register. Ten percent of those directly affected has been determined to be 41 persons based on the number of budgeting and fiscal districts in the State of Montana.

8. The board maintains a list of interested persons who wish to receive notices of rulemaking actions proposed by the board. Persons who wish to have their name added to the list shall make a written request that includes the name, e-mail, and mailing address of the person to receive notices and specifies for which program the person wishes to receive notices. Notices will be sent by e-mail unless a mailing preference is noted in the request. Such written request may be mailed or delivered to the contact person in 5 above or may be made by completing a request form at any rules hearing held by the board.

9. The bill sponsor contact requirements of 2-4-302, MCA, do not apply.

10. With regard to the requirements of 2-4-111, MCA, the board has determined that the amendment of the above-referenced rule will not significantly and directly impact small businesses.

/s/ McCall Flynn
McCall Flynn
Rule Reviewer

/s/ Tammy Lacey
Tammy Lacey
Board Chair
Board of Public Education

Certified to the Secretary of State January 18, 2022.

BEFORE THE BOARD OF PUBLIC EDUCATION
OF THE STATE OF MONTANA

In the matter of the amendment of) NOTICE OF PROPOSED
ARM 10.66.112 and 10.66.113) AMENDMENT
pertaining to adult secondary)
education credentials) NO PUBLIC HEARING
) CONTEMPLATED

TO: All Concerned Persons

1. The Board of Public Education (board) proposes to amend the above-stated rules.

2. The board will make reasonable accommodations for persons with disabilities who wish to participate in this rulemaking process or need an alternative accessible format of this notice. If you require an accommodation, contact the board no later than 5:00 p.m. on February 21, 2022, to advise us of the nature of the accommodation that you need. Please contact McCall Flynn, Executive Director, Board of Public Education, P.O. Box 200601, Helena, Montana, 59620-0601; telephone (406) 444-6576; fax (406) 444-0847; or e-mail bpe@mt.gov.

3. The rules as proposed to be amended provide as follows, new matter underlined, deleted matter interlined:

10.66.112 QUALIFICATIONS – EXCEPTIONS (1) Candidates 17 and 18 years of age are eligible to test and receive HSE diplomas provided the candidate:

(a) submits to the HSE testing center prior to testing, an original, official school document that clearly identifies the candidate by name, date of birth, and provides the last school enrollment date and signed by the chief education officer verifying that the candidate has been advised of in-school and alternative educational options; ~~or and~~

~~(b)~~ (c) resides in a Montana-based job corps center, correctional facility, state-authorized group home, youth challenge, or treatment center and submits a written referral from the facility director or authorized agent (e.g., probation officer); ~~and~~

~~(e)~~ (b) is no longer enrolled in a regular high school program for credit; or:

(2) remains the same.

AUTH: 20-2-114, 20-2-121, MCA

IMP: 20-2-131, MCA

10.66.113 AGE REQUIREMENT – WAIVER (1) remains the same.

(2) A candidate 16 years of age who resides in a Montana-based job corps center, correctional facility, state-authorized group home, youth challenge, or treatment center may receive a waiver of the age requirement if the candidate

submits a written referral from the facility director or authorized agent (e.g., probation officer) and is no longer enrolled in a regular high school program for credit.

(3) remains the same.

AUTH: 20-2-114, 20-2-121, MCA

IMP: 20-2-131, MCA

REASON: The Montana Youth Challenge Academy (MYCA) was inadvertently left out of ARM 10.66.112 and 10.66.113 and previously operated under the "state group home" exception. The Office of Public Instruction no longer grants that exception to allow MYCA to offer HiSET testing to their students without requiring students to first drop out of their local school district, based on the way the rule is currently written. The Board of Public Education is bringing these requested changes in ARM 10.66.112 and 10.66.113 to assist the MYCA in their efforts to continue offering HiSET testing to MYCA students while they are enrolled in their local school districts and MYCA.

4. Concerned persons may submit their data, views, or arguments concerning the proposed action in writing to: McCall Flynn, Executive Director, Board of Public Education, P.O. Box 200601, Helena, Montana, 59620; telephone (406) 444-6576; fax (406) 444-0847; or e-mail bpe@mt.gov, and must be received no later than 5:00 p.m., February 28, 2022.

5. If persons who are directly affected by the proposed action wish to express their data, views, or arguments orally or in writing at a public hearing, they must make written request for a hearing and submit this request along with any written comments to McCall Flynn at the above address no later than 5:00 p.m., February 28, 2022.

6. If the agency receives requests for a public hearing on the proposed action from either 10 percent or 25, whichever is less, of the persons directly affected by the proposed action; from the appropriate administrative rule review committee of the Legislature; from a governmental subdivision or agency; or from an association having not less than 25 members who will be directly affected, a hearing will be held at a later date. Notice of the hearing will be published in the Montana Administrative Register. Ten percent of those directly affected has been determined to be 41 persons based on the 409 public school districts in Montana.

7. The board maintains a list of interested persons who wish to receive notices of rulemaking actions proposed by this agency. Persons who wish to have their name added to the list shall make a written request that includes the name, e-mail, and mailing address of the person to receive notices and specifies for which program the person wishes to receive notices. Notices will be sent by e-mail unless a mailing preference is noted in the request. Such written request may be mailed or delivered to the contact person in paragraph 4 or may be made by completing a request form at any rules hearing held by the board.

8. An electronic copy of this proposal notice is available through the Secretary of State's web site at <http://sosmt.gov/ARM/Register>.

9. With regard to the requirements of 2-4-111, MCA, the board has determined that the amendment of the above-referenced rules will not significantly and directly impact small businesses.

/s/ McCall Flynn
McCall Flynn
Rule Reviewer

/s/ Tammy Lacey
Tammy Lacey
Chair
Board of Public Education

Certified to the Secretary of State on January 18, 2022.

BEFORE THE DEPARTMENT OF LABOR AND INDUSTRY
OF THE STATE OF MONTANA

In the matter of the amendment of) NOTICE OF PUBLIC HEARING ON
ARM 24.11.206, 24.11.450A, and) PROPOSED AMENDMENT
24.11.452A pertaining to response)
times in unemployment insurance)

TO: All Concerned Persons

1. On February 25, 2022, at 10:00 a.m., the Department of Labor and Industry (department) will hold a public hearing via remote conferencing to consider the proposed amendment of the above-stated rules. There will be no in-person hearing. Interested parties may access the remote conferencing platform in the following ways:

a. Join Zoom Meeting, <https://mt-gov.zoom.us/j/81376296517>, Meeting ID: 813 7629 6517, Passcode: mVLdq6G*EB; or

b. Dial by telephone, +1 406 444 9999 or +1 646 558 8656, Meeting ID: 813 7629 6517, Passcode: 2410318560.

The hearing will begin with a brief introduction by department staff to explain the use of the videoconference and telephonic platform. All participants will be muted except when it is their time to speak.

2. The department will make reasonable accommodations for persons with disabilities who wish to participate in this public hearing or need an alternative accessible format of this notice. If you require an accommodation, contact the department no later than 5:00 p.m., on February 18, 2022, to advise us of the nature of the accommodation that you need. Please contact Heather Brutosky, Unemployment Insurance Division, P.O. Box 8020, Helena, Montana 59604-8020; telephone (406) 444-9489, facsimile (406) 444-2699, or Montana Relay Service at 711; or e-mail heather.brutosky@mt.gov.

3. The rules as proposed to be amended provide as follows, new matter underlined, deleted matter interlined:

24.11.206 TIME ALLOWED AND PROCEDURE FOR FILINGS AND SUBMISSIONS (1) through (2)(b) remain the same.

(c) ~~e-mail transmission to the file transfer service or the e-mail address~~
electronic submission by means designated by the department.

(d) remains the same.

(3) Interested parties shall respond to initial requests for information from the department within eight calendar days. Interested parties shall respond to any subsequent request for information from the department within two business days.

(a) These times may be extended solely on a finding by the department that the interested party had good cause for the untimely response.

~~(3) Claimants and employers are allowed eight days to respond to department requests for information pertaining to a benefit claim. A timely response by mail must be received by the department no later than the established deadline. Each response must identify the person responding and address fully the department's questions.~~

~~(4) An employer who, without good cause, provides an untimely or incomplete response to a department request for information may forfeit interested party status and the right to credit for any overpayment, pursuant to 39-51-605, MCA, and ARM 24.11.208 and 24.11.617.~~

~~(5) Claimants and employers are allowed ten days to submit a request for an appeal of a determination, redetermination, or decision of an appeals referee relating to a claimant's entitlement to or eligibility for benefits or to an employer's chargeability for benefits. A timely request for an appeal by mail must be received by the department no later than the established deadline. In the absence of an appeal, a determination, redetermination, or decision becomes final ten days after the determination, redetermination, or decision was mailed by the department to the party's last known address.~~

~~(6) The department may allow the untimely submission of information or request for an appeal only when the department determines that the claimant or employer had good cause to be untimely.~~

~~(7) Any individual may obtain an answer to an inquiry concerning the unemployment insurance program by submitting the inquiry by telephone, facsimile, mail, or e-mail.~~

AUTH: 39-51-301, 39-51-302, MCA

IMP: 39-51-301, 39-51-603, 39-51-605, Title 39, chapter 51, parts 11 through 13, and 21 through 24, MCA

REASON: Section (2) is amended to broaden the types of electronic submission which may be received. Section (3) is amended to specify that only initial requests for information have an eight-day response timeline; all further requests for information must receive response in two business days. This timeline will permit speedier and more timely adjudication of claims. Section (4) is proposed to be stricken because it is duplicative of ARM 24.11.208. Section (5) is proposed to be stricken because it is duplicative of ARM 24.11.450A. Section (6) is proposed to be stricken because good cause for an untimely submission may be considered on redetermination or appeal. Section (7) is proposed to be stricken because it is unnecessary to state in rule the departmental policy of responding to inquiries to which responses may be given.

24.11.450A NONMONETARY DETERMINATIONS AND REDETERMINATIONS (1) remains the same.

~~(2) The department shall investigate, when necessary, prior to issuing a formal, written determination on claimant's qualification or eligibility for benefits.~~

~~(3) Interested parties shall respond to all department requests for information pertinent to an investigation within eight days of the request, unless the delay in responding was for "good cause" as defined in ARM 24.11.204. When a claimant~~

~~fails to respond within eight days and in the absence of "good cause," the department shall proceed with the adjudication process. When an employer fails to respond within eight days or provides an inadequate response to a relevant and material request for information from the department, the department shall determine the employer forfeited the right to participate in the adjudication of the claim as an interested party and forfeited the right to credit for any benefit overpayment created by the employer's untimely or inadequate response, pursuant to 39-51-605, MCA, and ARM 24.11.208.~~

(4) through (8) remain the same but are renumbered (2) through (6).

(7) In the absence of a timely request for redetermination or appeal as set forth in this rule, the prior decision of the department or appeals referee is final.

(9) through (13) remain the same but are renumbered (8) through (12).

AUTH: 39-51-301, 39-51-302, MCA

IMP: 39-51-605, 39-51-2202, 39-51-2203, 39-51-2205, 39-51-2301, 39-51-2302, 39-51-2303, 39-51-2304, 39-51-2402, 39-51-2507, 39-51-2508, 39-51-2511, 39-51-2602, 39-51-3201, 39-51-3202, 39-51-3206, MCA

REASON: Reasonable necessity exists to amend this rule to shorten and simplify the administrative rules. In addition, its timeliness provisions overlap with those set forth in ARM 24.11.206. As such, in the interest of clarity and consistency in the rules, language is proposed to be removed. New (7) is designed to eliminate any possible ambiguity with regard to finality of unappealed determinations from unemployment insurance.

24.11.452A ELIGIBILITY FOR BENEFITS (1) through (5)(a) remain the same.

(b) fails to provide information requested by the department timely within eight days of the date of a mailed, faxed, telephoned, or electronic request;

(c) through (8) remain the same.

AUTH: 39-51-301, 39-51-302, MCA

IMP: 39-51-504, 39-51-2101, 39-51-2104, 39-51-2115, 39-51-2304, MCA

REASON: Reasonable necessity exists to amend (5)(b) in conformance with other proposed rule changes in this proposal. The change will ensure uniformity of timing to respond to requests for information.

4. Concerned persons may present their data, views, or arguments either orally or in writing at the hearing. Written data, views, or arguments may also be submitted to Heather Brutosky, Unemployment Insurance Division, P.O. Box 8020, Helena, Montana 59604-8020; facsimile (406) 444-2699; or e-mail heather.brutosky@mt.gov, and must be received no later than 5:00 p.m., February 25, 2022.

5. The department maintains a list of interested persons who wish to receive notices of rulemaking actions proposed by this agency. Persons who wish to have

their name added to the list shall make a written request, which includes the name and e-mail or mailing address of the person to receive notices and specifies the particular subject matter or matters regarding which the person wishes to receive notices. Such written request may be mailed or delivered to the contact person in paragraph 2 above or may be made by completing a request form at any rules hearing held by the agency.

6. The bill sponsor contact requirements of 2-4-302, MCA, do not apply.

7. Pursuant to 2-4-111, MCA, the department has determined that the rule changes proposed in this notice will not have a significant and direct impact upon small businesses.

8. Department staff has been designated to preside over and conduct this hearing.

/s/ QUINLAN L. O'CONNOR
Quinlan L. O'Connor
Alternate Rule Reviewer

/s/ LAURIE ESAU
Laurie Esau, Commissioner
DEPARTMENT OF LABOR AND INDUSTRY

Certified to the Secretary of State January 18, 2022.

BEFORE THE DEPARTMENT OF LABOR AND INDUSTRY
OF THE STATE OF MONTANA

In the matter of the amendment of) NOTICE OF PUBLIC HEARING ON
ARM 24.17.127 concerning prevailing) PROPOSED AMENDMENT
wages)

TO: All Concerned Persons

1. On February 25, 2022, at 9:00 a.m., the Department of Labor and Industry (department) will hold a public hearing via remote conferencing to consider the proposed amendment of the above-stated rule. There will be no in-person hearing. Interested parties may access the remote conferencing platform in the following ways:

- a. Join Zoom Meeting, <https://mt-gov.zoom.us/j/84460150040>, Meeting ID: 844 6015 0040, Passcode: 083872; or
- b. Dial by telephone, +1 406 444 9999 or +1 646 558 8656, Meeting ID: 844 6015 0040, Passcode: 083872.

All participants will be muted except when it is their time to speak.

2. The department will make reasonable accommodations for persons with disabilities who wish to participate in this public hearing or need an alternative accessible format of this notice. If you require an accommodation, contact the department no later than 5:00 p.m., on February 18, 2022, to advise us of the nature of the accommodation that you need. Please contact the Data Management Unit, Employment Relations Division, Department of Labor and Industry, Attn: Mike Smith, P.O. Box 8011, Helena, MT 59604-8011; fax (406) 444-4140; or e-mailed to MSmith3@mt.gov.

3. The rule as proposed to be amended provides as follows, new matter underlined, deleted matter interlined:

24.17.127 ADOPTION OF STANDARD PREVAILING RATE OF WAGES

(1) through (1)(d) remain the same.

(e) The current building construction services rates are contained in the 2022 amended version of the "Montana Prevailing Wage Rates for Building Construction Services" publication.

(f) remains the same.

(g) The current heavy construction services rates are contained in the 2022 amended version of the "Montana Prevailing Wage Rates for Heavy Construction Services" publication.

(h) through (3) remain the same.

AUTH: 2-4-307, 18-2-409, 18-2-431, MCA

IMP: 18-2-401, 18-2-402, 18-2-403, 18-2-406, 18-2-411, 18-2-412, 18-2-413, 18-2-414, 18-2-415, 18-2-422, 18-2-431, MCA

REASON: Reasonable necessity exists to amend the insulation workers – mechanical (Heat and Frost) wage rates for building and heavy construction because, though timely received by the department, survey information applicable to the rates were not properly included in the wage rate calculations. For building construction, this information, once included, will increase the wage rate for all districts from \$35.37 to \$37.37 and decrease the benefit amount from \$21.87 to \$19.87. For heavy construction, the wage rate would increase from \$37.97 to \$39.97, and the benefit amount will decrease from \$21.87 to \$19.87. For both building and heavy construction, the 50- to 60-mile travel pay will increase from \$45.00 per day to \$50.00 per day.

4. Concerned persons may present their data, views, or arguments either orally or in writing at the hearing. Written data, views, or arguments may also be submitted to the Data Management Unit, Employment Relations Division, Department of Labor and Industry, Attn: Mike Smith, P.O. Box 8011, Helena, MT 59604-8011; fax (406) 444-4140; or e-mailed to MSmith3@mt.gov, and must be received no later than 5:00 p.m., February 25, 2022.

5. The department maintains a list of interested persons who wish to receive notices of rulemaking actions proposed by this agency. Persons who wish to have their name added to the list shall make a written request, which includes the name and e-mail or mailing address of the person to receive notices and specifies the particular subject matter or matters regarding which the person wishes to receive notices. Such written request may be mailed or delivered to the contact person in paragraph 2 or may be made by completing a request form at any rules hearing held by the agency.

6. The bill sponsor contact requirements of 2-4-302, MCA, do not apply.

7. With regard to the requirements of 2-4-111, MCA, the department has determined that the amendment of the above-referenced rule may significantly and directly impact small businesses. The proposed amendments will have an impact on some, but not all small businesses. The proposed amendments directly affect the wages that must be paid for work on Montana public works contracts.

Montana law requires that prevailing wage rates be set following an annual survey of wages. There is an established statutory and administrative formula that establishes the prevailing wage rate for each work classification, based on the data and information gathered. The alternative to amending the wage rates is to not amend the rate, thus freezing the wage rate at the last-adopted level. Some employers would probably be adversely affected by the failure to adopt new prevailing wage rates. The department believes that under either alternative, some small businesses will be adversely affected by the selected alternative. The small businesses likely to be adversely affected by adoption of new rates are probably not the same as those that are likely to be adversely affected by not adopting new rates.

8. Department staff has been designated to preside over and conduct this hearing.

/s/ QUINLAN L. O'CONNOR
Quinlan L. O'Connor
Alternate Rule Reviewer

/s/ LAURIE ESAU
Laurie Esau, Commissioner
DEPARTMENT OF LABOR AND INDUSTRY

Certified to the Secretary of State January 18, 2022.

BEFORE THE DEPARTMENT OF LABOR AND INDUSTRY
OF THE STATE OF MONTANA

In the matter of the amendment of	)	NOTICE OF AMENDMENT,
ARM 24.16.7506, 24.16.7535,	)	ADOPTION, AND REPEAL
24.17.103, 24.33.475, 24.35.205, and)	
24.35.206, the adoption of NEW)	
RULES I through IX, and the repeal of)	
ARM 24.16.7503, 24.16.7514,)	
24.16.7517, 24.16.7519, 24.16.7521,)	
24.16.7524, 24.16.7527, 24.16.7531,)	
24.16.7534, 24.16.7536, 24.16.7537,)	
24.16.7541, 24.16.7544, 24.17.814,)	
24.17.817, 24.17.821, 24.17.822,)	
24.17.824, 24.17.827, 24.17.829,)	
24.17.831, 24.17.834, 24.17.837,)	
24.17.838, 24.17.841, 24.17.844, and)	
24.17.847 pertaining to procedures for)	
wage and prevailing wage claims,)	
complaints, investigations, and appeals)	

TO: All Concerned Persons

1. On December 10, 2021, the Department of Labor and Industry (department) published MAR Notice No. 24-16-379 regarding the public hearing on the proposed amendment, adoption, and repeal of the above-stated rules, at page 1713 of the 2021 Montana Administrative Register, Issue No. 23.

2. On January 4, 2022, a public hearing was held on the proposed amendment, adoption, and repeal of the above-stated rules via the videoconference and telephonic platform. No comments were received by the January 7, 2022, deadline.

3. The department has amended ARM 24.16.7506, 24.16.7535, 24.17.103, 24.33.475, 24.35.205, and 24.35.206 exactly as proposed.

4. The department has adopted New Rules I (24.16.4001), II (24.16.4004), III (24.16.4007), IV (24.16.4010), V (24.16.4013), VI (24.16.4016), VII (24.16.4019), VIII (24.16.4022), and IX (24.16.4025) exactly as proposed.

5. The department has repealed ARM 24.16.7503, 24.16.7514, 24.16.7517, 24.16.7519, 24.16.7521, 24.16.7524, 24.16.7527, 24.16.7531, 24.16.7534, 24.16.7536, 24.16.7537, 24.16.7541, 24.16.7544, 24.17.814, 24.17.817, 24.17.821, 24.17.822, 24.17.824, 24.17.827, 24.17.829, 24.17.831, 24.17.834, 24.17.837, 24.17.838, 24.17.841, 24.17.844, and 24.17.847 exactly as proposed.

/s/ DARCEE L. MOE
Darcee L. Moe
Rule Reviewer

/s/ LAURIE ESAU
Laurie Esau, Commissioner
DEPARTMENT OF LABOR AND INDUSTRY

Certified to the Secretary of State January 18, 2022.

BEFORE THE DEPARTMENT OF LABOR AND INDUSTRY
OF THE STATE OF MONTANA

In the matter of the amendment of ARM) NOTICE OF AMENDMENT AND
24.21.1003 and repeal of 24.21.415) REPEAL
pertaining to apprenticeship ratios)

TO: All Concerned Persons

1. On November 5, 2021, the Department of Labor and Industry (department) published MAR Notice No. 24-21-385 pertaining to the public hearing on the proposed amendment and repeal of the above-stated rules at page 1465 of the 2021 Montana Administrative Register, Issue Number 21.

2. The department held a public hearing in Helena on December 8, 2021, over the Zoom videoconference and telephonic platform at which members of the public commented. Written comments were received during the public comment period.

3. The department has thoroughly considered the comments made. A summary of the comments and the department's responses are as follows:

COMMENT 1: Numerous commenters stated support for the rules amendments as proposed.

RESPONSE 1: The comments are noted.

COMMENT 2: A commenter stated that the current 2 journeymen to 1 apprentice is outdated and creates a barrier to entry.

RESPONSE 2: The comment is noted. The proposal as adopted here seeks to correct the barrier to entry.

COMMENT 3: Numerous commenters suggested the department continue with the current 2 journeymen to 1 apprentice ratio after the first apprentice while also repealing ARM 24.21.1003(2), which allows increased numbers of apprentices after 60 percent of required training and instruction has been completed.

RESPONSE 3: The department acknowledges the comments. However, the effect of implementation of that suggestion would be to reduce further the number of apprentices training toward journeyman status in Montana. As set forth in the rules proposal, this proposal is undertaken to expand the number of individuals able to enter the workforce so as to expand participation. That need has been balanced against the necessity to ensure safe workplaces and protect all Montanans. The department is confident that its proposal can effectuate both goals.

COMMENT 4: Numerous commenters suggested an amendment to ARM 24.21.1002 to prohibit apprentices from supervising other apprentices.

RESPONSE 4: The comment is noted. However, the comment exceeds the scope of the present rulemaking. It should further be noted that apprentices must be supervised by workers who are not apprentices. As such, including the amendment is unnecessary.

COMMENT 5: Numerous commenters suggested amendment to ARM 24.21.1003(4) to state that "the department will monitor the progress toward completion of all apprentices."

RESPONSE 5: The comment is noted. However, the comment exceeds the scope of the present rulemaking. It should further be noted that the department does monitor progress of all apprentices, and including the provision in rule is unnecessary.

COMMENT 6: Numerous commenters supported repeal of ARM 24.21.415 waiver provisions.

RESPONSE 6: The comments are noted.

COMMENT 7: A commenter suggested that the number of apprentices supervised by a journeyworker should increase based on the level of experience of the apprentices. The commenter noted that it is easier for a journeyworker to supervise apprentices who have more experience.

RESPONSE 7: The comment is acknowledged. The comment additionally supports the logic of ARM 24.21.1003(4), which excludes from the apprentice to journeyman ratio calculation those apprentices who have completed more than 60 percent of on-the-job training and related instruction.

COMMENT 8: Several commenters supported changing the present apprenticeship ratio to 1 to 1 for the first four apprentices, and 2 journeymen to 1 apprentice for all additional apprentices. Others proposed the adoption of a 1-to-1 ratio without limitation. The comment suggests expansion of the ratio further than this will damage industries.

RESPONSE 8: The comment is appreciated for its willingness to recognize the need to expand the present apprenticeship ratio. However, the department disagrees that its proposed ratio expansion will damage any industry. With appropriate monitoring by apprentice sponsors, supervising journeyworkers, and the department, the department is confident that the ratio will protect public safety and health while permitting additional future journeyworkers to enter the trades.

COMMENT 9: Several commenters suggested increasing the 60 percent threshold of ARM 24.21.1003(2) to 75 percent.

RESPONSE 9: The comment is acknowledged. However, such change does not appear to be necessary at this time to protect public safety and health.

COMMENT 10: A commenter suggested that apprenticeship completion should have a time limit to ensure contractors are incentivized to complete their apprentices.

RESPONSE 10: At this time, the department believes the current enhanced monitoring requirements set forth in ARM 24.21.1003(4) are sufficient to ensure sponsors are working to complete apprentices. The department will continue to monitor completion rates to ensure abuse does not occur.

COMMENT 11: Numerous commenters stated opposition to the proposed apprenticeship ratio because of an expressed concern for workplace safety and the quality of training for apprentices.

RESPONSE 11: It is the responsibility of apprenticeship sponsors to ensure appropriate training and supervision of apprentices. These requirements are set forth in administrative rule, see ARM 24.21.302, federal rule, see 29 C.F.R. § 29.5, as well as the apprenticeship sponsor agreements entered by sponsors. The department will continue to monitor apprenticeships across Montana to ensure that sponsors are fulfilling their obligations to their apprentices, providing adequate and safe equipment and supervision, as well as safety training for apprentices. Failure of sponsors to comply with applicable law may subject the program to withdrawal of revocation. See ARM 24.21.405. With these protections in place, the department is confident that the apprentice ratio can be safely implemented.

4. The department has amended ARM 24.21.1003 as proposed.

5. The department has repealed ARM 24.21.415 as proposed.

/s/ QUINLAN L. O'CONNOR
Quinlan L. O'Connor
Alternate Rule Reviewer

/s/ LAURIE ESAU
Laurie Esau, Commissioner
DEPARTMENT OF LABOR AND INDUSTRY

Certified to the Secretary of State January 18, 2022.

BEFORE THE DEPARTMENT OF LABOR AND INDUSTRY
OF THE STATE OF MONTANA

In the matter of the adoption of New) NOTICE OF ADOPTION
Rules I through V pertaining to the)
employer job growth incentive tax)
credit)

TO: All Concerned Persons

1. On December 10, 2021, the Department of Labor and Industry (department) published MAR Notice No. 24-23-384 pertaining to the public hearing on the proposed adoption of the above-stated rules at page 1726 of the 2021 Montana Administrative Register, Issue Number 23.

2. The department held a public hearing on January 6, 2022, over the Zoom videoconference and telephonic platform at which no members of the public commented. No written comments were received during the public comment period.

3. The department has adopted New Rules I (24.23.301), II (24.23.304), III (24.23.307), IV (24.23.310), and V (24.23.313) exactly as proposed.

/s/ QUINLAN L. O'CONNOR
Quinlan L. O'Connor
Alternate Rule Reviewer

/s/ LAURIE ESAU
Laurie Esau, Commissioner
DEPARTMENT OF LABOR AND INDUSTRY

Certified to the Secretary of State January 18, 2022.

BEFORE THE DEPARTMENT OF LIVESTOCK
OF THE STATE OF MONTANA

In the matter of the amendment of) NOTICE OF AMENDMENT
ARM 32.8.201 pertaining to scope of)
rules)

TO: All Concerned Persons

1. On October 8, 2021, the Department of Livestock published MAR Notice No. 32-21-321 pertaining to the proposed amendment of the above-stated rule at page 1267 of the 2021 Montana Administrative Register, Issue Number 19.
2. The department has amended the above-stated rule as proposed.
3. No comments or testimony were received

BY: /s/ Michael S. Honeycutt
Michael S. Honeycutt
Executive Officer
Board of Livestock
Department of Livestock

BY: /s/ Darcy Alm
Darcy Alm
Rule Reviewer

Certified to the Secretary of State January 18, 2022.

BEFORE THE DEPARTMENT OF PUBLIC HEALTH
AND HUMAN SERVICES
OF THE STATE OF MONTANA

In the matter of the amendment of) NOTICE OF AMENDMENT
ARM 37.87.903, 37.87.1801,)
37.87.1802, 37.87.1803,)
37.106.1955, 37.106.1956,)
37.106.1960, 37.106.1961, and)
37.106.1965 pertaining to)
comprehensive school and)
community treatment)

TO: All Concerned Persons

1. On November 5, 2021, the Department of Public Health and Human Services (department) published MAR Notice No. 37-963 pertaining to the public hearing on the proposed amendment of the above-stated rules at page 1490 of the 2021 Montana Administrative Register, Issue Number 21. Additionally, on December 10, 2021, the department published an amended notice to MAR Notice No. 37-963 pertaining to a second public hearing on the proposed amendment of the above-stated rules at page 1757 of the 2021 Montana Administrative Register, Issue Number 23.

2. The department has amended the following rules as proposed: ARM 37.87.903, 37.87.1801, 37.87.1802, 37.106.1955, 37.106.1956, 37.106.1960, 37.106.1961, and 37.106.1965.

3. The department has amended the following rule as proposed, but with the following changes from the original proposal, new matter underlined, deleted matter interlined:

37.87.1803 COMPREHENSIVE SCHOOL AND COMMUNITY TREATMENT PROGRAM: REIMBURSEMENT (1) Comprehensive school and community treatment (CSCT) services delivered by a licensed mental health center with an endorsement under ARM 37.106.1955 must be billed under the school district's provider number. ~~CSCT staff may not bill Medicaid for other mental health center services or outpatient therapy. CSCT staff may only bill Medicaid for CSCT services.~~

(2) through (8) remain as proposed.

(9) CSCT services rendered to youth attending school in a Montana county with a per capita population of fewer than 6 people per square mile are eligible to receive a frontier community differential of 115% of the current fee schedule, as provided in ARM 37.85.106.

AUTH: 53-2-201, 53-6-113, MCA

IMP: 50-5-103, 53-2-201, 53-6-101, 53-6-111, 53-6-113, MCA

4. The department has thoroughly considered the comments and testimony received. A summary of the comments received, and the department's responses are as follows:

COMMENT #1: Several commenters offered support for the proposed rule amendments and updated Children's Mental Health Medicaid Services Provider Manual (manual) and thanked the department for updating the rate methodology, increasing operational flexibility, and adding care coordination as a billable service, including outcome measurements.

RESPONSE #1: The department thanks providers and stakeholders for this feedback and support, and believes the rule amendments and updated manual will enhance the quality of the Comprehensive School and Community Treatment (CSCT) service provision to youth and families while managing a fiscally sound program.

COMMENT #2: A commenter requested clarification on the billable days per month caps for teams with two or one (therapist) members when schools cannot provide the referrals necessary for a three-person team.

RESPONSE #2: The department clarifies that the CSCT billing caps are 120 service days per month for a CSCT team of one, 240 service days per month for a CSCT team of two, and 360 services days per month for a CSCT team of three.

COMMENT #3: Several commenters expressed concern that given the workforce shortage and the COVID-19 pandemic, the requirement that CSCT staff may not bill for other Medicaid services does not allow providers to fully utilize all available staff to meet the needs of youth and families.

RESPONSE #3: The department agrees with this comment, and has removed this requirement from ARM 37.87.1803(1) and will monitor for quality service delivery when mental health centers are allowed the flexibility of CSCT staff billing for other Medicaid services.

COMMENT #4: A commenter requested clarification if the administrative rule requirement that CSCT staff may not bill Medicaid for other mental health services also includes Healthy Montana Kids (HMK) Extended.

RESPONSE #4: The department clarifies that CSCT has not been, and is not, a covered service by HMK. Providers may bill unbundled services, such as outpatient psychotherapy and community-based psychiatric rehabilitation services for youth enrolled in HMK. The department has removed the restriction of CSCT staff billing for other Medicaid services from ARM 37.87.1803(1) and will monitor for quality service delivery when mental health centers are allowed the flexibility of CSCT staff billing for other Medicaid services.

COMMENT #5: Several commenters raised concern about the intergovernmental transfer process and the guidance received to date.

RESPONSE #5: The purpose of the rule notice is to update the CSCT benefit for Montana Medicaid and authorize an intergovernmental transfer process for funding the state match. The department will continue to work with stakeholders and other state agencies to provide operational guidance. Therefore, the comment is outside the scope of this rulemaking.

COMMENT #6: A commenter requests that the department rewrite the rule to allow care coordination to be billed without the requirement to provide two core services per week.

RESPONSE #6: The department disagrees with this comment and will not rewrite the rule to allow care coordination to be billed without the requirement to provide two core services. The department added care coordination to address concerns that CSCT providers were performing unbillable care coordination. While care coordination is important for youth and their families, the department requires direct care therapeutic interventions such as individual, group, and family psychotherapy, psychiatric rehabilitation, and crisis response to be provided within the same week as care coordination is billed to ensure that the program's focus is on improving the youth's functional level by facilitating the development of skills related to exhibiting appropriate behaviors in the school, home, and community settings.

COMMENT #7: Two commenters requested clarification on billing for summer programming and the proposed daily rate. One commenter would like the department to consider an increase of 1.5 times the daily rate for longer durations. The other commenter asked the department to amend the rule to allow for CSCT teams to either provide CSCT or unbundle services during summer months and bill other Medicaid services.

RESPONSE #7: The department disagrees with the commenters, and did not increase the daily rate for longer durations. In order to convert the reimbursement unit from a 15-minute unit to a daily per encounter rate, the department did the following: compiled three years of historical utilization data on CSCT, including total encounters and total 15-minute billed units, calculated the average number of 15-minute units per encounter based on historical data for calendar year 2019 (5.6) and 2020 (6.0), adjusted the average units per encounter based on projected utilization, multiplied the historical 15-minute unit rate by the projected units per encounter, and applied an adjustment for inflation. The historical utilization data included data from the summer months and the average 15-minute unit per encounter included longer durations in the summer months. Additionally, the resulting daily rate aligned with the daily rate that was included in a proposal received from CSCT providers. The department maintained the requirement in ARM 37.106.1956(1)(i) for CSCT to be available twelve continuous months per year and provided four days per week at a minimum in the summer months. Unbundling services to bill other Medicaid services would not comply with this requirement.

COMMENT #8: A commenter requested clarification on if new provider team numbers will be issued for teams rather than schools in situations where one team of three provides services to two schools.

RESPONSE #8: The department clarifies that provider team numbers will be issued to the team providing the CSCT services rather than issue provider team numbers by the school in which services are provided.

COMMENT #9: A commenter recommended amending the data collection process by working with the department to design a tool that better collects useful data.

RESPONSE #9: The department disagrees with this comment and will not amend the data collection process. The proposed data collection tool was created by the department with input from mental health centers providing the data for Targeted Case Management (TCM) for Youth with Serious Emotional Disturbances (SED). The department believes that provider input has been captured on this tool and that there is value in collecting the same measurements across services. Mental health centers are welcome to collect any outcome measurements that the agency is interested in, and the department welcomes this information to inform future policy.

COMMENT #10: A commenter proposes to amend the proposed amendment to reduce the number of school coordination meetings to "at least three times per year."

RESPONSE #10: The department disagrees with this comment, and did not change the proposed amendment to reduce the number of school coordination meetings to "at least three times per year." The department believes that quarterly meetings with school administration are the appropriate minimum number of annual meetings and the updated rules will allow for flexibilities that align with typical school calendars by requiring the school coordination meetings to occur four times per year rather than every ninety days.

COMMENT #11: A commenter requested clarification on how youth in crisis should be incorporated into the CSCT billing structure and there could be a separate crisis rate that is used during a child/family crisis. The commenter noted that working with one child in crisis can take considerable time and impact the time available for other youth within the program.

RESPONSE #11: The department disagrees with this comment and will not add a separate crisis rate to be used during a child/family crisis. The department notes that crisis response services have always been a component of CSCT. Crisis response services are included in the proposed daily bundled rate for CSCT which was based on three years of historical utilization, including units billed for crisis response.

COMMENT #12: Several commenters requested clarification on how the prior authorization process will work for CSCT and Home Support Services (HSS) and if there will be an administrative burden as there are with other programs. The commenters felt that it would be beneficial during the workforce shortage to streamline or remove CSCT and HSS prior authorizations. Commenters also inquired when the two programs should be offered concurrently as they are both intensive programs for families

RESPONSE #12: The department agrees with the commenters and removed the requirement in the CSCT and HSS sections of the manual for prior authorization for CSCT and HSS to be provided concurrently. This change was made to reduce administrative burden for mental health centers and to increase access to services for youth with SED.

COMMENT #13: A commenter recommended that the proposed frontier rate be based on the school district location and not the youth's residence. The commenter stated that it would be challenging to have clean agreements/processes with the schools. An unforeseen impact of this frontier versus non-frontier rate is that frontier schools are required to pay more for the same service and the frontier schools feel this is unequitable.

RESPONSE #13: The department agrees with the commenter and has revised the manual to provide the frontier rate county to be based on the location of the school district rather than the county where the youth resides to simplify CSCT contracts and billing. This change has been added to the CSCT section of the manual.

COMMENT #14: A commenter requested that the compliance date to begin using the CASII be moved to August 2022 to allow for training of staff not already using CASII. The commenter stated they are in complete agreement with using the CASII outcome measurement tool for CSCT. The commenter also noted that agencies already using CASII for other programs such as TCM and HSS, could provide the data prior to August 2022 for DPHHS and the legislature oversight.

RESPONSE #14: The department agrees with this change, and has revised the requirement in the CSCT section of the manual to start administering CASII or ECSII effective August 1, 2022, to allow additional time for training of CSCT staff in the CASII.

COMMENT #15: A commenter raised concerns that the department is proposing that 75% of HSS must be provided in the home or community. The commenter stated that it appears to be an additional, unnecessary restriction of HSS, meaning only 25% is allowable in a school setting. The commenter stated that there are many schools across the state that do not have CSCT but have a need for a youth to have HSS and that HSS is intended to meet the need in the school, home, and community. The commenter added that this rule change would limit the support and the autonomy of the youth's individualized treatment plan based on clinical/medical necessity to determine where the intervention/service is most needed.

RESPONSE #15: The department agrees with this comment, and has included school in its definition of community in the manual. The department has updated the HSS section of the manual to clarify that 75% of HSS must be provided in the home, school, or community.

COMMENT #16: A commenter requested that prior authorization based on team size be removed from the manual leaving the limit at 360 billable days per month. The commenter stated that, as written, they thought this will lead to providers providing unbillable services with the new 30 minutes equals one billable day methodology.

RESPONSE #16: The department disagrees with this comment, and will maintain the prior authorization based on team size as proposed. These limits are intended to maintain the level of service intensity of CSCT. Using an average month of 20 school days, 120 billable days per team member allows for each team member to serve six youth for at least 30 minutes, which the department believes to be an appropriate caseload. Allowing for one team member to bill for 360 days per month would incentivize higher caseloads and less intense services.

COMMENT #17: A commenter inquired when prior authorizations will be required when the number of team members changes within a month.

RESPONSE #17: The department clarifies that prior authorization is required for a CSCT team of one to provide over 120 service days per month or for a CSCT team of two to provide over 240 service days per month. If the number of team members changes within a month, and the provider anticipates providing over the 120 service days per month per team member limits, the department requests that a prior authorization form be submitted when the change occurs. The prior authorization form will include more details on the process and will be located on the Montana Healthcare Programs Provider Information website and on the Children's Mental Health Bureau website.

COMMENT #18: A commenter stated that the HSS section of the manual states: "The requirements outlined in (b) and (c) above are waived for the warm discharge hand-off period, during the warm discharge hand-off period the provider must meet all other requirements and have weekly contact with the family to be eligible for Medicaid reimbursement." The commenter added that there is no (b) and (c) above to reference and that the section above has numbers instead of letters.

RESPONSE #18: The department appreciates the commenter bringing this to our attention, and it has been corrected in the HSS section of the manual.

5. The department intends to apply changes related to outcome measurements in ARM 37.106.1961 effective March 1, 2022. All other referenced rule amendments are effective retroactively to October 1, 2021. A retroactive

application of the proposed rule amendments does not result in a negative impact to any affected party.

/s/ Aleea Sharp

Aleea Sharp
Rule Reviewer

/s/ Adam Meier

Adam Meier, Director
Public Health and Human Services

Certified to the Secretary of State January 18, 2022.

BEFORE THE DEPARTMENT OF REVENUE
OF THE STATE OF MONTANA

In the matter of the amendment of	)	NOTICE OF AMENDMENT AND
ARM 42.4.1202, 42.21.158, and	)	REPEAL
42.21.162 and the repeal of ARM)	
42.4.1601, 42.4.1602, 42.4.1603,)	
42.4.1604, 42.4.1605, 42.4.1606,)	
42.4.1607, 42.4.1608, 42.4.1609,)	
42.4.1610, 42.4.1611, and 42.4.1612)	
pertaining to the electrical generation)	
and transmission facility exemptions)	
and new or expanded industry credit)	
for corporate income taxes)	

TO: All Concerned Persons

1. On December 10, 2021, the Department of Revenue (department) published MAR Notice No. 42-1045 pertaining to the proposed amendment and repeal of the above-stated rules at page 1759 of the 2021 Montana Administrative Register, Issue Number 23.

2. No requests for a public hearing were received. The department did not receive any written comments in support or opposition to the proposed amendments or repeals.

3. The department has amended and repealed the above-stated rules as proposed.

/s/ Todd Olson
Todd Olson
Rule Reviewer

/s/ Brendan Beatty
Brendan Beatty
Director of Revenue

Certified to the Secretary of State January 18, 2022.

BEFORE THE SECRETARY OF STATE
OF THE STATE OF MONTANA

In the matter of the amendment of) NOTICE OF AMENDMENT
ARM 44.3.1713 pertaining to testing)
of vote tabulation machines)

TO: All Concerned Persons

1. On September 24, 2021, the Secretary of State published MAR Notice No. 44-2-246 pertaining to the public hearing on the proposed amendment of the above-stated rule at page 1200 of the 2021 Montana Administrative Register, Issue Number 18.

2. On October 14, 2021, a public hearing was held on the proposed amendment of the above-stated rule. A written comment was received during the public comment period.

3. The Secretary of State has amended the following rule as proposed, but with the following changes from the original proposal, new matter underlined, deleted matter interlined:

44.3.1713 UNIFORM PROCEDURES FOR USING VOTING SYSTEMS

(1) For each voting system approved under 13-17-101, MCA, the system must comply, as applicable, with the following procedures specified in the instruction manuals, user guides, and technical manuals provided by the manufacturer and distributor of the system, as well as the election judge handbook provided by the Office of the Secretary of State (except in cases in which those materials conflict with state laws or rules, in which case the laws or rules shall apply):

(a) through (d) remain as proposed.

(e) the security measures necessary to secure the voting system before, during, and after an election, including security following a recount under 13-16-417, MCA; and

(f) ~~except as required under (g),~~ testing and certification of voting systems pursuant to 13-17-212, MCA; and

(i) Except when (ii) is applicable, including a random test must be conducted by a county election administrator or designee of 10% of each type of voting systems, a minimum of one per county, on election day, to validate the accuracy of voted paper ballots with the voting system results; ~~and~~

~~(g) (ii) County election administrators choosing to start if automatic tabulation begins the day before the election pursuant to 13-13-241(7)(a), MCA, an election administrator shall publicly must test all used central count vote tabulation machines no more than 30 days prior to the election~~ the day before the election, before counting begins.

AUTH: 13-17-211, 13-17-212, MCA

IMP: 13-17-211, 13-17-212, MCA

4. The Secretary of State has considered the comment received. A summary of the comment and SOS's response is as follows:

COMMENT #1: A commenter said the counties should be required to test their equipment before beginning their official count on the day before the election and counties should be allowed to use all the machines to do the early count. The commenter suggested that counties that do early tabulation should not be required to reserve a machine to test on election day.

RESPONSE #1: The Secretary of State agrees and has revised the amendment to reflect the recommended changes.

/s/ AUSTIN JAMES
Austin James
Rule Reviewer

/s/ ANGELA NUNN
Angela Nunn
Chief Deputy Secretary of State

Dated this 18th day of January, 2022.

BEFORE THE SECRETARY OF STATE
OF THE STATE OF MONTANA

In the matter of the amendment of) NOTICE OF AMENDMENT
ARM 44.3.2002, 44.3.2005,)
44.3.2011, 44.3.2015, 44.3.2102,)
44.3.2110, 44.3.2302, 44.3.2303, and)
44.3.2304 pertaining to Voter)
Registration Requirements,)
Provisional Registration, Late)
Registration Procedures, Voter)
Identification, and Related Definitions)

TO: All Concerned Persons

1. On October 8, 2021, the Secretary of State published MAR Notice No. 44-2-250 pertaining to the public hearing on the proposed amendment of the above-stated rules at page 1309 of the 2021 Montana Administrative Register, Issue Number 19.

2. On October 28, 2021, a public hearing was held on the proposed amendment of the above-stated rules.

3. The Secretary of State has amended the following rules as proposed: ARM 44.3.2002, 44.3.2005, 44.3.2011, 44.3.2102, 44.3.2110, 44.3.2302, 44.3.2303, and 44.3.2304.

4. The Secretary of State has amended the following rule as proposed, but with the following changes from the original proposal, new matter underlined, deleted matter interlined:

44.3.2015 LATE REGISTRATION PROCEDURES (1) In addition to and consistent with the procedures specified in the Montana Code Annotated, and due to administrative necessity, the following shall apply to late registration:

(a) remains as proposed.

(b) After the close of late registration, an elector may:

(i) update ~~change~~ their residence to a different county within Montana but may only vote in their previous county of residence pursuant to 13-2-514, MCA.

(ii) update their residence to a different precinct within the county and may vote a ballot from the former precinct or new precinct. The elector may obtain the former precinct ballot at their former precinct or either ballot at a central location designated by the county election administrator. ~~change their residence to a different precinct within the county, and may vote in the new precinct, old precinct, or a central location designated by the county election administrator.~~

(iii) through (5) remain as proposed.

AUTH: 13-2-108, MCA

IMP: 13-2-304, 13-2-512, 13-2-514, MCA

5. The Secretary of State has thoroughly considered the comments received. A summary of the comments and SOS's responses are as follows:

COMMENT #1: A commenter said that the proposed amendment to ARM 44.3.2005 changes the way incomplete applications are treated (provisional versus pending/incomplete) which would require several changes to county election processes as well as voter registration system changes.

RESPONSE #1: The Secretary acknowledges that the proposal expands the use of "provisionally registered electors" to all applicants that do not complete all required fields on the voter registration application instead of only those that do not provide proper identification. Section 13-1-101(39), MCA defines "provisionally registered elector" as an individual whose application for voter registration was accepted but whose identity or eligibility has not yet been verified as provided by law. The proposed change properly aligns the rule with the statutory definition.

COMMENT #2: A commenter said that the proposed rules do not provide for the verification of U.S. citizenship for applicants or electors.

RESPONSE #2: The 2021 legislative enactments implemented by these proposed rule amendments (House Bill 176 and Senate Bill 169) do not address proof of citizenship, so these rule amendments do not address this issue. However, the existing voter registration process does require applicants to attest to their U.S. citizenship and Montana residency under the penalty of perjury. No other proof of citizenship is required under Montana statutes.

COMMENT #3: A commenter said the proposed rules do not provide for checks on an applicant's or elector's felony convictions or mental incapacity.

RESPONSE #3: The 2021 legislative enactments implemented by these proposed rule amendments (House Bill 176 and Senate Bill 169) do not address proof of mental capacity or felony convictions, so these rule amendments do not address those issues. However, Montana's Constitution only suspends a felon's voting franchise while the felon is serving a sentence in a penal institution. On release the felon's voting franchise is restored. Montana Constitution, Art. 4, Sec. 2.

COMMENT #4: A commenter said 13-2-512(1), MCA does not support allowing an elector, after the close of late registration, to change their precinct and vote in the new precinct as the proposed change to ARM 44.3.2015(1)(b)(ii) appears to allow.

RESPONSE #4: The precinct limits imposed by 13-2-512(1), MCA apply only to electors who have not notified the election administrator of their new address. The proposed changes to ARM 44.3.2015 simply allow for notification of such a change in addresses after the close of late registration for an otherwise properly registered elector and thereby allowing such an elector to vote a ballot from the new precinct.

Based on the comment, the Secretary acknowledges clarification is appropriate to avoid misinterpretation of the rule and has revised the amended rule accordingly. Also, 13-2-512, MCA has been added to the implementing statutes.

COMMENT #5: A commenter questioned whether the proposed rules limit the rights of inactive voters to reactivate their registrations under 13-2-222, MCA, or 52 USC 20507(d) and (e) of the National Voter Registration Act of 1993.

RESPONSE #5: The proposed rules are not in conflict with 13-2-222, MCA, or the National Voter Registration Act of 1993. The proposed rule would allow an elector certain action after the close of late registration. Proposed ARM 44.3.2015(1)(b)(i) and (ii) deal with updating addresses and where such an elector with a late updated address should cast their ballot. Section 13-2-222(1)(a), MCA only gives a general description of how an inactive elector can reactivate the registration, one example being "appears at a polling place in order to vote." As is proper for rules, ARM 44.3.2015(1)(b)(iv) provides clarification and allows the county election administrator discretion in designating locations for these electors to cast their ballot, which may also include polling places.

Certain provisions of the National Voter Registration Act of 1993 (52 USC 20507(e)) concern how and where a voter who has changed addresses may vote. While ARM 44.3.2015(1)(b)(i) through (iii) concern the same issues (the election day notice of a voter's change of address issue), they are consistent with 52 USC 20507(e). ARM 44.3.2015(1)(b)(iv) does not address late noticed changes of address, but the late reactivation of a voter's registration, which does not implicate the sections of the National Voter Registration Act cited by the commenter.

COMMENT #6: A commenter said the proposed amendments to ARM 44.3.2002(5)(b)(ii) allow student IDs to be used as voter identification but student IDs do not list address or residence, and the student could be from out of state.

RESPONSE #6: Under the proposed amendments to ARM 44.3.2002(5)(b)(ii), a student photo identification may only be used as a photo identification by an applicant if the applicant also provides a "current utility bill, bank statement, paycheck, government check, or other government document that shows the individual's name and current address." The U.S. citizenship, age, and residency requirements are statements affirmed by the applicant under penalty of perjury.

COMMENT #7: A commenter said there should be a 24-hour time limit on the election officials to make the changes to the statewide voter registration system contemplated in the proposed amendments to ARM 44.3.2005(1) and (4)(c).

RESPONSE #7: At this time given the generally high competence and diligence demonstrated by county election officials in Montana, the Secretary does not see the need for a rule-based time limit for these minor ministerial acts.

COMMENT #8: A commenter said the proposed amendments to ARM 44.3.2011 should list valid sources for verification such as the Department of Motor Vehicles, U.S. Postal Service, etc.

RESPONSE #8: Inclusion of examples of verification sources in the rule amendments was considered by the Secretary, but given the wide range of possible sources, it was concluded that specific examples in the rules would be more limiting than helpful to county election officials who must use their judgement in such cases.

COMMENT #9: A commenter said under the proposed amendments to ARM 44.3.2015, electors wishing to change their name under which they vote should be required to provide proof of that name change through marriage license, divorce decree, or other court documents.

RESPONSE #9: The 2021 legislative enactments implemented by these proposed rule amendments (House Bill 176 and Senate Bill 169) do not require outside verification of name changes, so these rule amendments do not address this issue. However, information supplied on the voter registration application is affirmed by the applicant under penalty of perjury.

COMMENT #10: A commenter said the proposed amendments to ARM 44.3.2015(1)(b)(ii) should contain a definition of "central location."

RESPONSE #10: As the "central location" will vary county by county, it is doubtful a definition provided by the Secretary in these rule amendments would be helpful to the county election officials who know their counties and available resources best. In addition, the proposed rule is aligned with statute (13-2-512, MCA) that provides the election administrator the discretion to designate a central location.

COMMENT #11: A commenter asked whether the definition under the proposed amendment to ARM 44.3.2302(5)(c) allows the use of commercially issued photo identifications, such as Costco or Sam's Club cards to be used for absentee or mail-in ballot identifications.

RESPONSE #11: Yes, together with the other documentation required under the proposed rules.

COMMENT #12: A commenter stated that "election worker" needs a definition and should be limited to hired county personnel who is not affiliated with any partisan, non-partisan group nor privately funded staff.

RESPONSE #12: The 2021 legislative enactments implemented by these proposed rule amendments (House Bill 176 and Senate Bill 169) do not address qualifications of election workers, so these rule amendments do not address this issue. However, "election worker" is currently defined in ARM 44.3.2002(4).

COMMENT #13: A commenter stated that the Secretary of State could encourage election offices to do their utmost to facilitate voter registration access to Montana citizens by scheduling concurrent shifts, such as 7 am to 3 pm and 3 pm to 11 pm, a Sunday through Thursday shift and Tuesday through Saturday shift to compliment the current 8 am to 5 pm shifts.

RESPONSE #13: The Secretary supports voter registration access; however, each county is responsible for establishing hours of operation for the election offices to meet the needs of their residents. The Secretary does not have authority to impose required hours, and with the availability of the mail-in and other registration options, the Secretary does not find expanded county office hours to be vital to voter registration access.

COMMENT #14: A commenter objected to any and all changes and asked, "When discussing changes to something so very important, why do you not contact residents of Montana first?"

RESPONSE #14: All the proper and required public notifications as set by the legislature were provided for these proposed rule amendments. In addition to the required notifications, additional outreach regarding these important proposed rule amendments was done to encourage and solicit feedback.

The commenter may wish to consult <https://rules.mt.gov> where proposed rule amendments for the Secretary of State and all agencies are published in the Montana Administrative Register. In addition, the commenter may wish to visit the Secretary of State's website where all Secretary of State rulemaking notices are listed, and the commenter can sign up to be included on the interested person's list to be notified when Secretary of State administrative rule notices are published in the Montana Administrative Register.

COMMENT #15: A commenter believes voters should be required to appear in person when voting so identification can be certain.

RESPONSE #15: Absentee and mail-in voting in the allowed circumstances are provided under statute in Montana, and in those circumstances the rules regarding voter identification must be followed.

COMMENT #16: A commenter was concerned about valid IDs and indicated it is too easy to get fraudulent IDs.

RESPONSE #16: Validation of identification is completed by competent, well-trained county election officials and is a key part of the registration and voting process. The proposed rules implement the identification requirements established by the 2021 legislative enactments (Senate Bill 169).

COMMENT #17: Commenters offered various spelling, grammar, and style suggestions.

RESPONSE #17: No changes were required or made in response to these comments.

/s/ AUSTIN JAMES
Austin James
Rule Reviewer

/s/ ANGELA NUNN
Angela Nunn
Chief Deputy Secretary of State

Dated this 18th day of January, 2022.

BEFORE THE SECRETARY OF STATE
OF THE STATE OF MONTANA

In the matter of the adoption of New) NOTICE OF ADOPTION
Rule I pertaining to the registration of)
a person who employs a paid)
signature gatherer)

TO: All Concerned Persons

1. On November 19, 2021, the Secretary of State published MAR Notice No. 44-2-252 pertaining to the public hearing on the proposed adoption of the above-stated rule at page 1669 of the 2021 Montana Administrative Register, Issue Number 22.

2. On December 10, 2021, a public hearing was held on the proposed adoption of the above-stated rule. There were no attendees at the public hearing. Written comments were received during the public comment period.

3. The Secretary of State has thoroughly considered the comments received. A summary of the comments and SOS's responses are as follows:

COMMENT #1: A commenter suggested that the person who employs a paid signature gatherer should be listed on the petition.

RESPONSE #1: The 2021 legislative enactment implemented by this proposed rule adoption (House Bill 651) addresses registration, not identification of the paid signature gatherers, so this rule proposal does not address this issue.

COMMENT #2: A commenter suggested that the paid signature gatherers should wear name tags identifying they are paid by the person who employs them.

RESPONSE #2: The 2021 legislative enactment implemented by this proposed rule adoption (House Bill 651) addresses registration, not identification of the paid signature gatherers, so this rule proposal does not address this issue.

COMMENT #3: A commenter suggested that there is no reason to systematically waive the fee for all registrations.

RESPONSE #3: The Secretary of State was given discretion to establish the amount of the filing fee (13-27-202, MCA). The Secretary determined it would take more resources to implement the registration with a minimal fee than to implement with no fee.

COMMENT #4: A commenter suggested that the Secretary of State should consider including the statement of fact on the petition and ballot (when applicable).

RESPONSE #4: The 2021 legislative enactment (House be 651) implemented by this proposed rule adoption does not include this requirement, so the rule proposal does not address this issue.

4. The Secretary of State has adopted New Rule I (44.3.2801) as proposed.

/s/ AUSTIN JAMES
Austin James
Rule Reviewer

/s/ ANGELA NUNN
Angela Nunn
Chief Deputy Secretary of State

Dated this 18th day of January, 2022.

NOTICE OF FUNCTION OF ADMINISTRATIVE RULE REVIEW COMMITTEE

Interim Committees and the Environmental Quality Council

Administrative rule review is a function of interim committees and the Environmental Quality Council (EQC). These interim committees and the EQC have administrative rule review, program evaluation, and monitoring functions for the following executive branch agencies and the entities attached to agencies for administrative purposes.

Economic Affairs Interim Committee:

- Department of Agriculture;
- Department of Commerce;
- Department of Labor and Industry;
- Department of Livestock;
- Office of the State Auditor and Insurance Commissioner; and
- Office of Economic Development.

Education and Local Government Interim Committee:

- State Board of Education;
- Board of Public Education;
- Board of Regents of Higher Education; and
- Office of Public Instruction.

Children, Families, Health, and Human Services Interim Committee:

- Department of Public Health and Human Services.

Law and Justice Interim Committee:

- Department of Corrections; and
- Department of Justice.

Energy and Telecommunications Interim Committee:

- Department of Public Service Regulation.

Revenue and Transportation Interim Committee:

- Department of Revenue; and
- Department of Transportation.

State Administration and Veterans' Affairs Interim Committee:

- Department of Administration;
- Department of Military Affairs; and
- Office of the Secretary of State.

Environmental Quality Council:

- Department of Environmental Quality;
- Department of Fish, Wildlife and Parks; and
- Department of Natural Resources and Conservation.

Water Policy Interim Committee (where the primary concern is the quality or quantity of water):

- Department of Environmental Quality;
- Department of Fish, Wildlife and Parks; and
- Department of Natural Resources and Conservation.

These interim committees and the EQC have the authority to make recommendations to an agency regarding the adoption, amendment, or repeal of a rule or to request that the agency prepare a statement of the estimated economic impact of a proposal. They also may poll the members of the Legislature to determine if a proposed rule is consistent with the intent of the Legislature or, during a legislative session, introduce a bill repealing a rule, or directing an agency to adopt or amend a rule, or a Joint Resolution recommending that an agency adopt, amend, or repeal a rule.

The interim committees and the EQC welcome comments and invite members of the public to appear before them or to send written statements in order to bring to their attention any difficulties with the existing or proposed rules. The mailing address is P.O. Box 201706, Helena, MT 59620-1706.

HOW TO USE THE ADMINISTRATIVE RULES OF MONTANA AND THE MONTANA ADMINISTRATIVE REGISTER

Definitions:

Administrative Rules of Montana (ARM) is a looseleaf compilation by department of all rules of state departments and attached boards presently in effect, except rules adopted up to three months previously.

Montana Administrative Register (MAR or Register) is an online publication, issued twice-monthly, containing notices of rules proposed by agencies, notices of rules adopted by agencies, and interpretations of statutes and rules by the Attorney General (Attorney General's Opinions) and agencies (Declaratory Rulings) issued since publication of the preceding Register.

Use of the Administrative Rules of Montana (ARM):

Known
Subject

1. Consult ARM Topical Index.
Update the rule by checking recent rulemaking and the table of contents in the last Montana Administrative Register issued.

Statute

2. Go to cross reference table at end of each number and title which lists MCA section numbers and department corresponding ARM rule numbers.

RECENT RULEMAKING BY AGENCY

The Administrative Rules of Montana (ARM) is a compilation of existing permanent rules of those executive agencies that have been designated by the Montana Administrative Procedure Act for inclusion in the ARM. The ARM is updated through September 30, 2021. This table includes notices in which those rules adopted during the period August 6, 2021, through January 14, 2022, occurred and any proposed rule action that was pending during the past 6-month period. (A notice of adoption must be published within six months of the published notice of the proposed rule.) This table does not include the contents of this issue of the Montana Administrative Register (MAR or Register).

To be current on proposed and adopted rulemaking, it is necessary to check the ARM updated through September 30, 2021, this table, and the table of contents of this issue of the Register.

This table indicates the department name, title number, notice numbers in ascending order, the subject matter of the notice, and the page number(s) at which the notice is published in the 2021 or 2022 Montana Administrative Registers.

To aid the user, this table includes rulemaking actions of such entities as boards and commissions listed separately under their appropriate title number.

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EXECUTIVE BRANCH APPOINTEES AND VACANCIES

Section 2-15-108, MCA, passed by the 1991 Legislature, directed that all appointing authorities of all appointive boards, commissions, committees, and councils of state government take positive action to attain gender balance and proportional representation of minority residents to the greatest extent possible.

One directive of 2-15-108, MCA, is that the Secretary of State publish monthly in the ***Montana Administrative Register*** a list of executive branch appointees and upcoming vacancies on those boards and councils.

In this issue, appointments effective in December 2021 appear. Potential vacancies from February 1, 2022 through February 28, 2022, are also listed.

IMPORTANT

Membership on boards and commissions changes constantly. The following lists are current as of January 1, 2022.

For the most up-to-date information of the status of membership, or for more detailed information on the qualifications and requirements to serve on a board, contact the appointing authority.

EXECUTIVE BRANCH APPOINTEES FOR DECEMBER 2021

<u>Appointee</u>	<u>Appointed By</u>	<u>Succeeds</u>	<u>Appointment/End Date</u>
Alternative Health Care Board			
Ms. Ashley Hinton-Sharp	Governor	Jazmin Price	12/15/2021
Missoula			8/31/2025
Qualifications (if required): Midwife			
Community Service Commission			
Mr. Donnie Wetzel, Jr	Governor	Hadley Jackson	12/15/2021
Helena			8/31/2025
Qualifications (if required): OPI Representative			

EXECUTIVE BRANCH VACANCIES – FEBRUARY 1, 2022 THROUGH FEBRUARY 28, 2022

<u>Board/Current Position Holder</u>	<u>Appointed By</u>	<u>Term End</u>
Board of Public Education Ms. Darlene Schottle, Bigfork Qualifications (if required): District 1 Independent	Governor	2/1/2022
Board of Regents of Higher Education Mr. Robert Nystuen, Lakeside Qualifications (if required): District 1, Independent	Governor	2/1/2022
Montana Arts Council Ms. Cynthia L. Andrus, Bozeman Qualifications (if required): Public Representative	Governor	2/1/2022
Mr. John Paul Gabriel Jr., Bozeman Qualifications (if required): Public Representative	Governor	2/1/2022
Ms. Tracy Linder, Molt Qualifications (if required): Public Representative	Governor	2/1/2022
Ms. Elizabeth Albers, Missoula Qualifications (if required): Public Representative	Governor	2/1/2022
Dr. Renee Westlake, Bozeman Qualifications (if required): Public Representative	Governor	2/1/2022

EXECUTIVE BRANCH VACANCIES – FEBRUARY 1, 2022 THROUGH FEBRUARY 28, 2022

<u>Board/Current Position Holder</u>	<u>Appointed By</u>	<u>Term End</u>
Montana Small Business Development Center Advisory Council		
Mr. Paddy Fleming, Bozeman Qualifications (if required): Economic Development Professional	Governor	2/1/2022
Mr. Reed W. Bassett, Great Falls Qualifications (if required): Small Business Lender	Governor	2/1/2022
Mr. Karl Drga, Miles City Qualifications (if required): Small Business Lender	Governor	2/1/2022
Mr. Joe Fanguy, Missoula Qualifications (if required): Economic Development Professional	Governor	2/1/2022
Mr. Matt Harrington, Browning Qualifications (if required): Small Business Owner	Governor	2/1/2022
Ms. Debbie Singer, Billings Qualifications (if required): Economic Development Professional	Governor	2/1/2022
Mr. Joe Willauer, Butte Qualifications (if required): Economic Developer	Governor	2/1/2022

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